Mr. McCUMBER. I now ask unanimous consent for the consideration of Senate bill 10327.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 10327) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors. It proposes to pension the following-named persons at the rate stated:

Joseph Phillips, late of Company H, Twenty-first Regiment United States Infantry, War with Spain, $12.

August Siebrecht, late of Company B, Sixty-second Regiment Illinois Volunteer Infantry, commissary sergeant, United States Army, $24.

Pearl M. Welch, late of Battery A, First Battalion Maine Volunteer Heavy Artillery, War with Spain, $10.

Pauline S. Bloom, widow of Edward J. Bloom, late first lieutenant, Fourth Regiment United States Infantry, $25, with $2 per month additional on account of the minor child of said Edward J. Bloom until he reaches the age of 16 years.

William Horrigan, late of Company G, Seventh Regiment United States Infantry, $12.

Helen J. Sharp, widow of Alexander Sharp, late captain, United States Navy, $40.

Kate M. Armstrong, widow of Samuel E. Armstrong, late captain, Twenty-fourth Regiment United States Infantry, $30.

Ralph C. Fesler, late of Company K, One hundred and fifty-eighth Regiment Indiana Volunteer Infantry, War with Spain, $15.

John D. Harrell, late of Company A, First Regiment Florida Volunteer Infantry, War with Spain, $20.

Edward O. Berg, late of Company H, First Regiment South Dakota Volunteer Infantry, War with Spain, $12.

Ferdinand Imobersteg, late of band, Eleventh Regiment United States Infantry, $12.

John C. Tripp, late of Company E, First Regiment Maine Volunteer Infantry, War with Spain, $15.

Louisa A. Thatcher, widow of Joseph L. Thatcher, late carpenter, United States Navy, and dependent mother of William J. Thatcher, late chief turret captain, U. S. S. *Georgia*, United States Navy, $24.

Mary Andrews, dependent mother of Eugene O'Neil, late of Company E, First Regiment New Hampshire Volunteer Infantry, War with Spain, $12.

Ada J. Swaine, widow of William M. Swaine, late captain, First Regiment United States Infantry, and major, United States Army, retired, $30.

Robert L. Ivey, late of Capt. William H. Cone's company, Florida Mounted Volunteers, Florida Indian War, $16.

James J. Raulerson, late of Capt. Harrington's company, First Regiment Florida Mounted Volunteers, Seminole Indian War, $16.

Elizabeth P. Bell, widow of Vivian G. Bell, late first lieutenant Company H, Second Regiment United States Volunteer Infantry, War with Spain, $17, and $2 per month additional on account of each of the minor children of said Vivian G. Bell until they reach the age of 16 years.

Sarah E. Dean, widow of Richard C. Dean, late medical director with rank of rear admiral, United States Navy, $50.

James M. S. Wilmot, late of Company C, Thirteenth Regiment Minnesota Volunteer Infantry, War with Spain, $6.

Emma M. Heines, widow of Edward Heines, late of Battery A, Second Regiment United States Artillery, $12, and $2 per month additional for each of the minor children of said Edward Heines until they arrive at the age of 16 years.

Mr. McCUMBER. On page 5, line 5, before the word "dollars," I move to strike out "fifty" and insert "thirty;" so as to make the clause read:

The name of Sarah E. Dean, widow of Richard C. Dean, late medical director with rank of rear admiral, United States Navy, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SENATOR FROM ILLINOIS.

Mr. CUMMINS. Mr. President, I desire to give notice that at the close of the address of the Senator from Indiana [Mr. SHIVELY] to-morrow morning I shall address the Senate upon the Lorimer case.

Mr. KEAN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 42 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 26, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 25, 1911.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

CODIFICATION OF LAWS RELATING TO THE JUDICIARY.

The SPEAKER. This being under the rule calendar Wednesday, the unfinished business is in order.

Mr. MOON of Pennsylvania. Mr. Speaker, I call up the unfinished business of the House on calendar Wednesday.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. 23377) to codify, revise, and amend the laws relating to the judiciary.

Mr. MOON of Pennsylvania. Mr. Speaker, on the day when the bill was last under consideration, by unanimous consent certain pending amendments were postponed, to be taken up immediately when the House again resumed the consideration of the bill. Those amendments ought first to be disposed of under that agreement. There was an amendment offered by the gentleman from New York [Mr. BENNET], and an amendment to that amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. BENNET of New York. Mr. Speaker, I am willing to accept the amendment offered by the gentleman from Illinois.

Mr. MANN. Mr. Speaker, the first amendment which would have the right of way is the amendment offered by the gentleman from Indiana [Mr. CULLOP], but I am informed that the gentleman from Indiana prefers to have his amendment wait, and I think there will be no objection to proceeding with the amendment offered to section 116.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 120, line 18, strike out the word "seven" and insert the word "ten."

The amendment to the amendment offered by the gentleman from Illinois [Mr. MANN] is: "Strike out the words 'ten thousand' and insert the words 'eight thousand five hundred,' so that it will read '$8,500.'"

The SPEAKER. The first question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. BENNET of New York. Mr. Speaker, I desire to submit a few brief remarks.

Mr. MOON of Pennsylvania. Mr. Speaker, the amendment offered by the gentleman from Indiana [Mr. CULLOP], I understand, is postponed until after the consideration of this amendment.

Mr. BENNET of New York. Mr. Speaker, this amendment has to do with the salaries of the circuit judges, of whom there are three in each of the circuits except the second, seventh, and eighth, in which circuits there are four circuit judges. There are nine circuits, and therefore this particular amendment relates to a very few gentlemen occupying these positions of extreme responsibility. Owing to our recognition of the fact that there has been an increase in the cost of living, and an increase in the difficulty in securing the right kind of men for these positions at lower salaries, we have increased many salaries in the last six or seven years. A majority of us, I think, still here voted to increase our own salaries from $5,000 to $7,500 for adequate reasons. We increased them above the salaries now paid to the circuit judges.

These men under the act constituting the circuit court of appeals, the final appellate body in many cases, pass on the great Federal questions which are coming more and more into the court, not only in the East but in the Central West and in the far West. Next to the justices of the Supreme Court of the United States, whose salaries I hope will also be raised by an amendment on this bill, the justices of the circuit court who sit in the circuit court of appeals are the most important judicial officers in our system. It is necessary, therefore, that for these places we should get men of the best and highest caliber. Gentlemen say, Is it not possible to get men for these places now? Of course. It was possible to get men to come to Congress at $5,000 a year, and men are coming here now at $7,500; but we recognized the injustice of compelling 391 men, or the majority of them, to make that financial sacrifice, and we ourselves raised our own salaries to $7,500. We ought to extend

the same measure of justice to these circuit court judges that we extended to ourselves by our own vote.

Mr. BARTLETT of Georgia. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. BENNET of New York. Mr. Speaker, I yield to the gentleman from Georgia.

Mr. BARTLETT of Georgia. Mr. Speaker, not entering into any dispute with the gentleman as to the necessity or the propriety of increasing the salaries of the circuit judges at this time, does not the gentleman think that if we increase the salaries of the circuit judges in this bill, in justice to those judges who dispose of the trial business in the courts and upon whose shoulders by this bill we put the disposition and trial of all the business in the circuit courts, who now receive but $6,000, we should return to the paragraph in the bill which carries them, and consider the proposition of increasing their salaries, in fairness to the judiciary of the country?

Mr. BENNET of New York. Mr. Speaker, I say to the gentleman very frankly that I shall interpose no objection to going back to that paragraph, and I would be glad to vote for any amendment the gentleman may offer to increase the salaries of the district judges.

Mr. MICHAEL E. DRISCOLL. I suppose to $100,000?

Mr. BENNET of New York. Oh, I said that the gentleman would offer, and I know that the gentleman is a man of discretion.

Mr. BARTLETT of Georgia. If we increase the salaries of the circuit judges who now by this bill are relieved of the arduous work of a trial judge, who are to be transplanted, so to speak, to the trial of cases in the circuit court of appeals and other duties, I think we ought not to maintain such a great disparity between these two classes of judges, the district and the circuit, so far as salary is concerned, in view of the fact that we have put additional burdens upon the district judge. If the circuit judge goes outside of his circuit, he gets an allowance of $10 per day.

Mr. NORRIS. The circuit judge gets that allowance inside of his circuit.

Mr. BENNET of New York. And the district judge does not.

Mr. NORRIS. Whenever he is away from home.

Mr. BARTLETT of Georgia. The comparison I desire to draw is this: In the State of Georgia we have two district judges, one of whom resides in the city of Macon and the other in the city of Atlanta. The State is divided into different divisions, and they have to leave their homes and go to the various divisions to try the cases, yet they are not allowed their expenses in so doing, as the circuit judges are.

Mr. BENNET of New York. Mr. Speaker, I entirely agree with the gentleman. I know that the gentleman is an old and experienced and valuable Member here, and that he knows that we can amend but one section at a time, but I want to say to him that within the last week I have received a letter from a district judge, a very distinguished district judge in the southern country, whose name I can not, of course, use—a Democrat, one of the ablest district judges in the United States—and he calls my attention to the fact that in his great district, when he travels inside of it, his expenses for travel run between $1,000 and $2,000 a year, and he is not reimbursed for that, while the circuit judge is.

Mr. BARTLETT of Georgia. While this disparity exists between the compensation of the circuit and district judges, you still permit the circuit judge to receive his expenses, and yet make no provision for paying the expenses of the district judge. It is just as important that these judges who try cases in the beginning and on to the end shall have reasonable compensation as that the judges who sit on appeal in those cases shall.

Mr. BENNET of New York. Mr. Speaker, I so thoroughly agree with the gentleman from Georgia that it is a pleasure to be interrupted by him. I desire to say, in addition to what I have already said, that I have introduced a bill, now pending in the Judiciary Committee, to pay to each district judge, to reimburse him his expenses while traveling within his district, and I think very possibly the bill would have been reported before now except for the fact that in the Senate a similar bill has been introduced which passed the Senate and is now pending in the Committee on the Judiciary. I have tried to get that bill out of that committee, and I would welcome the assistance of the gentleman in that respect.

Mr. GOULDEN. Will the gentleman from New York yield?

Mr. BENNET of New York. Yes.

Mr. GOULDEN. Mr. Speaker, not being a lawyer, I desire to ask the gentleman from New York what salaries are paid at this time to the circuit judges and the district judges. The gentleman from Indiana [Mr. Cox], an able lawyer, sitting beside me, seems somewhat in doubt as to the exact salary paid; hence the question.

Mr. BENNET of New York. Circuit judges get $7,000 and district judges get $6,000.

Mr. GOULDEN. My friend from Indiana was right.

Mr. BENNET of New York. The gentleman is frequently right.

Mr. KEIFER. Mr. Speaker, in this turmoil around here we can not hear anything that anybody says, and there is some confusion about what amendment the gentleman is speaking to. I understand he has an amendment offered on a former day, but accepted somebody else's amendment, and I wish he would state exactly the amendment he is in favor of now.

Mr. BENNET of New York. Mr. Speaker, I shall be very frank——

The SPEAKER. The time of the gentleman has expired.

Mr. BENNET of New York. I would like to have time enough to answer the question—I ask for three minutes.

Mr. NORRIS. Mr. Speaker, I ask unanimous consent that the gentleman may have three minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. BENNET of New York. Mr. Speaker, I shall be very frank to my friend from Ohio. There are two amendments pending—one, my own, for $10,000, and one of the gentleman from Illinois for $8,500. I am for the largest sum I can get. Ten thousand dollars is none too high, but $8,500 is better than $7,000. Either sum that the House will vote I shall be very glad to see go through. I think, personally, if $10,000 went through, it would be better than if it were $8,500; but if the House thinks that $8,500 would be more commensurate with the general scale of salaries throughout the whole Government I shall not complain.

Mr. KEIFER. Mr. Speaker, the gentleman has not quite answered my query and that is whether he is now speaking in favor of his own amendment or whether he has accepted the other in lieu of it. I want to know the particular amendment that we are considering.

Mr. BENNET of New York. I say frankly to the gentleman from Ohio that I have more hope of getting $8,500 than $10,000, and I shall personally vote for $8,500, though giving the reasons for $10,000. I trust that is satisfactory. I am also reminded by the gentleman from Pennsylvania [Mr. Moon] that after deliberation the Committee on Judiciary of this House has reported in favor of $8,500 for the circuit judges, and, as I always like to follow a committee, and I think the House does, that is an additional reason why we should increase the salary to $8,500.

Mr. MICHAEL E. DRISCOLL. You say they have reported in favor of $10,000?

Mr. BENNET of New York. No; $8,500.

Mr. NORRIS. Mr. Speaker, I am opposed to increasing the salary of the United States circuit judges. I believe it is a mistake to hang up a salary for the United States judges that is so high that it will attract men simply for the money that is involved in it. There are men, as has been well said, who are on the circuit bench of the United States who would make more money if they were practicing law, but they are on the bench because they prefer and because they like the work of the circuit bench. There are men who refuse to be candidates to come to Congress because there is not money enough in it. There are many men here, perhaps, who could make more money in their chosen profession, or along other lines of business, than they can here, but who prefer to be here because they like the work here. We ought not to put our judiciary in a class that will be above the struggling and common citizenship of the country. They ought to remain where, at least to some extent, their hearts beat in sympathy with the man who struggles, with the man who labors either with his hands or with his brain. If the prize is so great from a financial standpoint that it attracts men simply for the money there is in it, it would lower rather than raise the standard of the judiciary. The United States circuit judge gets a salary of $7,000 a year. He gets an allowance of $10 a day for traveling expenses and hotel bills when he is away from home, so that he is paid $7,000 and his board and lodging, so to speak. He is not subject to any assessment of a political nature of any kind, and his salary, and so does his position, lasts as long as he lives, and it seems to me that with that salary he can be perfectly independent during his entire life of any interest or of any financial consideration that would have a tendency to influence or bias him in any way in his official conduct.

He ought to have that kind of a salary. He ought to be free and independent, and have salary enough so that he can devote his life and his abilities to the official work of his office. When it reaches that point—and, in my judgment, it is there now—it ought not to be increased, because of the tendency it might have to take him into a different class, perhaps, of society, in which the tendency would be to forget humanity, and rather consider, to the exclusion of human rights, the rights of property. Our judges ought to be above want. Any man, in my judgment, can live on the salary and allowances now *given by law to* the circuit judge, and be above all want and privation for his entire life. The salary of $7,000, under the conditions that surround it, given to a circuit judge, is in reality a salary much higher than Members of Congress, for instance, receive, although in dollars and cents Members of Congress are paid more money. It ought not to be so high that it would attract men for a financial consideration. It ought to be where it will make men independent and attract men who go along and work along those lines because their life work and their life inclination lead them that way.

Something has been said in regard to the district judges not being given these allowances. Personally, I would be in favor of returning to that part of the bill where the salary of district judges is fixed and give to them the same travel allowance, the same expense allowance, that we give to circuit judges. We ought to do that. It would be fair, it would be just, and in a great many parts of the country where the districts are large and the judges are away from home most of their time, it would only be a just compensation, to which I believe they are entitled. But that has nothing to do with this question.

Mr. MANN. Will the gentleman yield to a question?

Mr. NORRIS. I yield; yes.

Mr. MANN. The gentleman stated a moment ago that these circuit judges receive traveling expenses and $10 a day when away from home. Of course, that is not the case now.

Mr. NORRIS. The circuit judges?

Mr. MANN. Yes.

Mr. NORRIS. Yes; that is the case now.

Mr. MANN. Only where they are sitting in the circuit court of appeals. We provided at the last session of Congress, in the railroad bill, a requirement that they should sit three judges in order to hear certain injunction suits—applications for injunction. They are required to meet three at a time to do that, but they get no expenses on account of it.

Mr. NORRIS. The facts are that in this bill that we are considering now we provide for their sitting in the circuit court of appeals.

Mr. MANN. Oh, yes.

Mr. NORRIS. Their official work is going to be in the circuit court of appeals. Hence, this $10 allowance will apply to them practically all of the time when they are engaged in official business.

Mr. MANN. When they are engaged in the circuit court of appeals; but we provide also that they shall try cases as district judges.

Mr. NORRIS. There are certain contingencies, I think, in this bill where that will be true; that is, they would try cases as district judges, and under the laws as they exist now they are supposed to hold court and try cases; in fact, that the district judges almost universally try. But if we pass this bill, their time is going to be taken up in being members of and holding court as the circuit court of appeals, and then this $10 applies.

Mr. MANN. In the law we passed in last session we required them to sit in other cases away from home.

Mr. NORRIS. I think there are cases in this bill where they can.

Mr. MANN. There is no provision for the payment of their expenses.

Mr. NORRIS. I have an idea that under this bill, where the provision is made for their trying a case, like a district judge, there is such a provision in the bill, if I remember.

Mr. MANN. Yes.

Mr. NORRIS. They would not get their expenses, perhaps, but that is a small matter compared with the great amount of work they do.

Mr. MANN. Of course, there is no question at all about the future. In the past there have been a good many cases where they are required to sit as nisi prius judges, three of them, without any provision made——

Mr. NORRIS. I will say to the gentleman that I think provision ought to be made to pay their actual expenses, and I would favor that kind of a measure.

Mr. MANN. I have no doubt of that, and I simply call the attention of the gentleman——

Mr. NORRIS. I think the gentleman from Illinois, who is usually right, is right now, although the cases he speaks of would be a very small item, or I supposed it was, at least. I think we should put in a provision that would favor paying the expenses of these judges when away from home when sitting as circuit court of appeals.

Mr. MANN. I will say to the gentleman that there has been a very decided complaint on the part of the judges on that ground, and it ought to be considered at this session. The department has recommended a law that ought to be enacted.

Mr. NORRIS. It is very small in amount; we ought to rectify it; and the judges ought to have their expenses when away from home. I would like the same law to apply to all judges as far as expenses are concerned. I do not believe that their salaries ought to be increased.

Mr. STEPHENS of Texas. Will the gentleman allow me to ask him a question?

Mr. NORRIS. I yield to the gentleman.

Mr. STEPHENS of Texas. My question is, whether or not the salary of the judges of your own State are far lower than the salaries provided for here—are less than the salaries provided in this bill?

Mr. NORRIS. Yes.

Mr. STEPHENS of Texas. Does it not require as much or greater ability to fill those positions? The question is this: Does it not require as much ability and labor on the part of the judges in the supreme court of the various States as it does to fill the office of circuit court judge?

Mr. NORRIS. I think it does. I believe the ability, at least as far as I have been able to observe it, of the supreme judges of the States is equal to that of the United States judges.

Our judges should be absolutely independent of every outside influence and of everything which might have a tendency to in any way interfere with their official duties. They are the most important public officials of our Government. They should be absolutely free and unbiased, so that they can weigh the evidence and decide litigation alike between the rich and the poor, the high and the low. They should never be so far removed from the people—from the common, struggling citizens—that they will forget the just and fair rights of any litigant. The judges' salaries should be sufficient to keep them from want, from privation, from hardship, and to give them all the necessities and all of the reasonable luxuries of life. The salary should never be so high as to attract any man on account of its money consideration alone. The best judge, as well as the best citizen, is the man who realizes that money alone can not bring satisfaction or happiness; that the rights of property, while the same should be protected according to the spirit of the law, should never be permitted to outweigh or to cover up the rights of the individual. Men whose life work and whose life study have been in the direction of an understanding of the law and the principles of equity and justice, and who follow such lines because they love it and not for the money there is in it, are the men in whose hands the scales of justice should be placed.

The salary of the United States judges, with a few exceptions, is greater than the salary of the State supreme judges, and, without disparaging the ability of the United States judges in the least, I want to say that as far as my observation goes the ability of these judges does not surpass that of the judges sitting on the supreme bench of the States. In addition to the increased salary they have a life tenure of office; they retire at the age of 70 years, and the salary continues during their natural lives. A salary of $7,000 a year, together with all expenses, will make any man in almost any portion of our country absolutely independent for life, and permit him to pursue without interruption and without interference the work for which he is or should be fitted, and which to him is the source of more pleasure and gratification than could come to him in any other way. The men who are best fitted for the circuit bench of the United States, and whose study and education make them best qualified to perform its duties, would rather have such a position at their present compensation than to sit in the White House as the Chief Executive of the Nation. If we increase the salary to such an extent that it will attract men to the position on account of its money value alone, we shall lower rather than elevate the standard of our judiciary. [Applause.]

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I understand there are 261 lawyers in this Sixty-first Congress. This includes the Speaker, of whom, however, it has been said that, like the Gentiles of old, "having not the law, he is a law unto himself." The rest of Congress are business men or some other indifferent persons like myself. It ill becomes me, a plain business man, to speak in behalf of judges to 261 lawyers—the Speaker included—but, as has been said of old, "A prophet is not without honor, save in his own country and among his own kin and in his own house." For that reason I open my

remarks by quoting about the Federal judges, of whom I would speak not from what some lawyers have said of them, but the words of a Virginia farmer—planter, I believe, they called him—who appointed the first and original 13 Federal judges for the 13 original States. On September 17, 1789, the day he selected the 13 judges, President Washington wrote these memorable words of these 13 judges to Edmund Randolph, the Attorney General:

> Impressed with a conviction that the due administration of justice is the firmest pillar of good government, I have considered the first arrangement of the judiciary department as essential to the happiness of our country and to the stability of its political system. Hence the selection of the fittest characters to expound the law and dispense justice has been an invariable object of my anxious concern.

I leave it to you, the lawyers of this House, 261 in number—if you include the Speaker—to tell me whether the Federal system Washington thus installed has fulfilled the prophecy of the Father of his Country and has, as he hoped, contributed "to the happiness of our country and to the stability of its political system." I believe it has, and because I so believe I come as a plain business man to a plain business proposition.

The amendment before us provides for a most reasonable increase in the salaries of our Federal judges. In view of the increased cost of living, I believe this increase is due them, and I further believe that the press has, and the people will, back us in making it. You can always trust the fairness of the American people. The American people believe in fair pay for fitting service, and you will find they will approve this increase. Now, my fellow Members, let us be fair and frank in this matter. When we men in Congress felt that owing to the increase in the cost of living it was a simple act of justice that our pay as Senators and Members of the House be increased, we had what these judges have not, namely, the power to raise those salaries, and we did it. I voted for that increase because I thought it was right. I believe the sense of justice of the country at large approved it, and I have yet to hear of any Member of this House who was censured by his people for supporting that measure.

Mr. Speaker, I believe this increase to the Federal judges is an act of tardy justice and that this Congress has set a weighty and worthy precedent in justly raising our own pay. It is feeding men on husks to talk of repaying these men in honor, for in the busy centers where Federal courts are held honor does not pay the prosaic everyday expenses of modern life or educate children. And if honor comes to these men let me say that honor to this branch of our Government comes from them in which we all share. In these days of social upheavals of all kinds, of breaches of trust in business, banking, and corporate circles, I, as a plain, observant business man, have seen nothing that has come through so unsullied and unspotted as the men in whose behalf I raise my voice to-day to you 261 men who ought to be prouder of this record because, in a measure, it is your own.

On looking into the matter, Mr. Speaker, I find my congressional district is in the third of the nine judicial circuits of the country. Scattered through those nine circuits, for example, are 28 circuit judges. I find in my own circuit the State of New Jersey actually pays the 25 judges of its several State courts $30,600 more than the United States pays its 28 circuit judges. Mr. Speaker, this is Jersey justice. In my own State of Pennsylvania I find that, leaving out of account the judges of our supreme court, our highest court, and of our superior court, our second highest court, all of whom are paid still higher salaries, I find that in my own county of Allegheny and in the county of Philadelphia we pay to 27 local common pleas judges, whose jurisdiction extends to but a single county, salaries aggregating $229,500 annually, while the United States pays to its 28 circuit judges, whose jurisdiction covers the whole United States, but $196,000 annually.

Mr. Speaker, if these two States in one circuit and these two counties are right in thus recompensing these judges, and I believe they are, I must confess, though I know nothing of law, as my 261 colleagues do, that this strikes me as an example of State righteousness, if not of State rights, that commends itself to my business judgment. [Loud applause.]

Mr. BURKE of Pennsylvania and Mr. KENDALL addressed the Chair.

The SPEAKER. Is the gentleman from Pennsylvania opposed to the amendment?

Mr. BURKE of Pennsylvania. No; I am in favor of the amendment.

Mr. KENDALL. I am opposed to the amendment.

The SPEAKER. The Chair recognizes the gentleman from Iowa; the gentleman from Pennsylvania being for the amendment, will be recognized next.

Mr. KENDALL. I understand, Mr. Speaker, that I am recognized in opposition to the amendment; to both amendments, in fact.

The SPEAKER. Yes.

Mr. KENDALL. I listened with considerable interest to the suggestions advanced by the gentleman from New York in opening the discussion on his amendment. I dissent from some of the conclusions which he announces. He says that it is becoming increasingly difficult to secure the highest character of talent for circuit bench service. I do not agree with that opinion. I think there never has been a time in the history of our country when more capable men were so disposed to accept service in the judicial department of the Government as at this hour. We have seen that fact illustrated here in this House when one of the ablest Democrats on that side resigned his position here, the tenure to which I am informed was not imperiled, to accept a position on the district bench of the United States at a salary of $6,000 per annum; and we have seen it further illustrated within recent days when one of the strongest lawyers on this floor, a gentleman whose service might have continued indefinitely from the Commonwealth which I have the honor in part to represent, is ready to surrender his membership here to accept a position on the circuit bench of the United States at a salary of $7,000 per annum. [Loud applause.]

We heard here on this floor yesterday a statement, which was not controverted by anyone, that the Government of the United States will soon be confronted with the necessity of a bond issue in time of peace to defray its current expenses. Believing in economy as we profess, are we prepared, as representatives of the people, to sanction the advance in our expenditures which would be required if this amendment should be adopted?

I have no superstitious reverence for the doctrine that the Government ought to be administered with parsimonious economy, but I believe that under existing circumstances we are able to command the highest character and ability for this service. The position continues indefinitely in its tenure, with provision for retirement at 70 years of age, and I believe that we ought to leave the present salary at $7,000 per annum unchanged. It was well suggested by the gentleman from Nebraska that there are no incidental expenses in connection with judicial positions, such as appertain to us. There is no campaign to be prosecuted and no contributions to be donated. The service continues during life or good behavior, and I believe it is adequately compensated not only in money but in honor, in distinction, in opportunity for usefulness, which, after all, are the considerations which appeal to every worthy lawyer who aspires to a judgeship.

Mr. BENNET of New York. Will the gentleman yield to me for a question?

Mr. KENDALL. I will.

Mr. BENNET of New York. Does the gentleman think, because of the condition of the Treasury, we ought not to have passed the pension bill the other day?

Mr. KENDALL. I do not.

Mr. BENNET of New York. Does the gentleman think that on yesterday we should not have increased the salaries of the rural free-delivery carriers?

Mr. KENDALL. No, sir; and the gentleman has put his finger on the point that I regard as a most important consideration to be reflected upon in this House. Always when we are asked to advance a salary it is that of some man at the top. That condition has become chronic here. I protest against that principle. [Applause.] I believe we should remember the more modest and more humble of the public servants in this country. [Applause.]

Mr. BENNET of New York. Did not we vote yesterday to increase the salaries of the rural free-delivery carriers?

Mr. KENDALL. We did; $100; but here you propose to increase the salary of Federal judges $3,000. [Applause.]

Mr. BENNET of New York. If the gentleman will bear with me, there are 40,000 rural delivery carriers. I was perfectly willing to see them advanced, and I have voted twice for that increase. There are 30 of these judges, and the total increase will be $45,000 a year. Does the gentleman think that that will force a bond issue?

Mr. KENDALL. I do not think that it will force a bond issue or precipitate bankruptcy upon the country, but this is only one of a dozen or twenty propositions now being considered by this House that may in the aggregate have the effect to render a bond issue necessary. As one who loves his party, as one who believes in its future as well as rejoices in its past, I do not want to see the Republican Party saddled with that responsibility. [Applause.]

Mr. SISSON. Will the gentleman yield?

Mr. KENDALL. I will.

Mr. SISSON. Is it not true that the judges are appointed for life, and after arriving at the age of 70 years they retire on full pay?

Mr KENDALL. That provision is very plain.

Mr. SISSON. Since that is true, is not that a reason why we ought not to increase the salary of these judges, but might increase the salary of the rural free-delivery carriers?

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. BURKE of Pennsylvania. Mr. Speaker, I rarely disagree with my friend from Nebraska [Mr. NORRIS], but this is one of the occasions in which I am compelled to differ with him in his views on a public question. [Laughter.]

In all seriousness, however, the suggestion made by the gentleman in his argument against this amendment, that the increase of the salary of the judges to the extent proposed will have a tendency to lift them out of their present station in society to a higher station in the social world, and thereby lead them to forget human rights and human liberties, I think, is one of the common fallacies too frequently indulged in in this Chamber. I think it is one that should never find a resting place in the records of this body. The Fifty-ninth Congress raised the salaries of 391 Members in this House, and I defy any man to name one instance where a single Member was led, as a consequence of the raise in salary, to forget human rights or his duty to the American people.

Mr. NORRIS. Will the gentleman yield?

Mr. BURKE of Pennsylvania. I will yield to the gentleman.

Mr. NORRIS. I would like to ask the gentleman if he will not agree to this proposition: That $7,000 for a salary of a circuit judge is at least equal to a salary of $10,000 for a Member of Congress, when you take into consideration the tenure of office and other things that surround the keeping and securing of the office?

Mr. BURKE of Pennsylvania. I do not know, Mr. Speaker, what elements enter into the calculation of the gentleman from Nebraska or what the expenses are to which he refers. They may be heavy in his congressional district, and they may be heavy in others. But, Mr. Speaker, the incidental expenses touching political campaigns should never be made the measure of the justice we should accord to public servants who are not compelled to run for office.

Mr. NORRIS. I want to call the gentleman's attention to the fact that he himself made the comparison between Members of Congress and circuit court judges. We have to be elected every two years. It cost me something. It may be the gentleman from Pennsylvania is looked after otherwise, and that it does not cost him anything.

Mr. BURKE of Pennsylvania. "The gentleman from Pennsylvania" is fortunate enough to be looked after by the people of his district, as he is also in the habit of looking after them.

Mr. HAMLIN. Will the gentleman yield?

Mr. BURKE of Pennsylvania. With pleasure.

Mr. HAMLIN. I understood the gentleman to compare the salaries of the circuit court judges with the salaries of Members of Congress.

Mr. BURKE of Pennsylvania. If the gentleman understood me to compare the salaries of Members of Congress with the salaries of the judges, he is laboring under a misapprehension. The gentleman referred incidentally to the salary of the Members of this House in this respect: The gentleman from Nebraska said that the raise of the salary proposed in this amendment would have a tendency to elevate the judges of these courts out of their present station in society into a higher arena where they would forget human rights and human liberties. I said in reply that there was an example in the recent history of this House when the salary of the entire membership was increased 50 per cent, and yet not a single man could be pointed out who as a consequence of that raise has forgotten human rights and liberties or the duties we owe to the American people.

Mr. HAMLIN. Would not the gentleman, from a money standpoint, prefer to accept the salary of $3,000 in this House if he knew he had a position for life rather than to accept $7,500 with the conditions at present?

Mr. BURKE of Pennsylvania. If I were guaranteed a position in this House during my lifetime I might be willing to serve for nothing for the delightful privilege of being associated with the gentleman from Missouri and his able associates on this floor. [Laughter.]

Now, Mr. Speaker, I think, in addition to what I have already said, that the statement made by the gentleman from Nebraska [Mr. NORRIS] is based upon an assumption that is contradicted by the whole history of American society. In the eyes of sensible people the dollar has never yet created a man's station in the social life of this country, and I believe there is altogether too much of that doctrine preached to the American people, especially to the thoughtless throng who assume there is something in it because it is preached by Members of the House of Representatives, elected to do their duty to and create just impressions among the American people. [Applause.]

Mr. Speaker, there are many reasons why the salaries of these judges should be increased.

No set of men in the service of the United States, when one considers the qualifications required and the service they render, are more poorly paid than the judges of our United States courts, and while the same may have no direct bearing upon the subject at this time, I might add that the same may be said of many of the judges of our courts in the State of Pennsylvania.

No man familiar with the onerous and difficult duties continuously required to be performed by these men will hesitate for a single moment to make their compensation more in keeping with the measure of their duties than it is at the present time. The unthinking may regard them as adequately compensated, but those familiar with the character of their service must readily agree that their present salaries are wholly out of keeping with the modern rewards for service in public and private life.

The years of toil and training essential in the first instance to fit them for their profession, and the struggles they put forth and the talents they develop for the very highest service to the people before they attain their places of distinction on the bench, are too frequently lost sight of by those who attempt to set the standard of their rewards for that service, higher or more sacred than which no public servant can be called upon to perform. [Applause.]

COST OF LIVING.

The standard and the cost of living in every stratum of society has been elevated, and every well-ordered nation expects its public servants to keep abreast of the times, not only in the character of their service but in the manner of their living as well. It neither expects to unduly exalt them by extravagant rewards on the one hand or to demean them by inadequate salaries on the other.

There are many convincing reasons for the moderate advance suggested in these salaries to-day. Since 1901, when the present salaries were fixed, Congress has enacted 1,479 new public laws. These laws are wholly independent of the thousands of private bills that have passed, and all of them concern the administration of the affairs of the people. The Fifty-ninth Congress alone passed 416 public laws, the largest number ever passed by any Congress in the Government's history. As the increase in laws inevitably leads to increased duties and responsibilities upon the part of those charged with the administration of justice—the interpreting and the enforcement of those laws—the enlarged burdens of the judiciary must be manifest to every thinking man. [Applause.]

INCREASE OF LAWS.

In addition to the large increase in the number of laws, I believe it can be said that at no time in the history of our Government has there been more intense activity in the prosecution of offenses and enforcement of criminal statutes and the interpretation of measures for our social, political, and commercial development than at the present time; and all this means additional activities upon the part of our judiciary.

Were we to eliminate both the increase in the number of laws and the increased activity of our departments with reference to those laws in particular, the general growth and development of the country, the multiplication of grave questions arising out of our intense activity in almost every line of life, also has its influence in increasing the work which our courts of justice alone, under the Constitution, are called upon to do.

INCREASED DUTIES FROM NATION'S GROWTH.

With special reference to the United States judges this additional thought may be suggested, indicating the new source of increased duties: The perfection of inventions, the development of trade, the development of means of communication and transportation, and the constantly increasing intimacy of various States and communities with each other, making that which was purely intrastate in its character yesterday interstate in its nature to-day, and thus multiplying the matters over which our United States courts are called upon to exercise jurisdiction.

In the course of this debate I have heard many thoughtless and unjust criticisms of our courts, but I have always attributed them to either the want of knowledge or lack of reflection upon the part of those who made them. Now and then judges may

and do err, as all other human beings are likely to; but the record, as a whole, made by the judiciary of this country is one of the brightest pages in the world's history. [Applause.]

To me it is not strange that criticism should frequently fall upon men called to this high station. Did you ever stop to think that they, of all men in our public life, live in an atmosphere of contention? It is the spirit of controversy itself that brings citizens into our temples of justice; and as, since the world began, two views of all questions have been held, is it strange that the men whose duty it is to decide between the two, whose duty it is in the very nature of things to advance the cause of one and destroy the ambition of the other by a conscientious decision under the law—is it strange, after all, that the shafts of criticism should be directed at them by the disappointed?

Let our action here to-day not partake of that petty character which deals alone with the remote and trivial shortcomings of an occasional individual, but rather of that broad-gauged and generous nature which would rather do justice to the men who constitute that great institution in which the people of the Nation have always had an abiding faith. [Applause.]

Mr. CULLOP. Mr. Speaker, I am opposed to this amendment. I think that these judges are receiving ample compensation, as a rule, for their labors, as much as other departments of similar service, and no occasion now exists for the increase of salary here proposed.

These are high places, and it seems to be the universal rule to increase the salary—a rule which I deprecate very much.

Congressmen have been flooded by petitions from litigants in these courts requesting an increase of salaries for Federal judges. These come from fawning courtiers, hoping to curry favor with the presiding judges before whom their causes are pending. For these, and the purpose which animates their action, I have no sympathy, and look upon them with no concern other than pity.

The people who pay the taxes are already burdened almost beyond endurance, and now it is proposed to add to their burdens by fixing this unnecessary increase of expense. Against it I protest, and appeal to your better judgment to sustain my position.

There are in the neighborhood of 100 of these judges—between 90 and 100—each receiving a salary of $7,000 a year, and it is now proposed to increase it to $8,500. There is another consideration other than salary about the acceptance of one of these judgeships that belongs to no other office or employment that a man can have, and that is he is appointed for life, which is one large consideration of his accepting the appointment. It is a strong inducement to leave other callings and accept this high position when tendered. Whether that tenure is right or wrong I am not here to say, but I do cheerfully say that if that question was before this House for consideration I for one would vote to strike it down. [Applause.] I do not believe in a republic that any man ought to have a life tenure of office. It clothes him with a responsibility and arbitrary power dangerous in a free government to the liberties of the people. [Applause.] Who are the men appointed judges? They come from the walks of life clothed with no higher talents than other men. That it will bring a higher grade of men in the service, as some have claimed, is a mistake. You can scarcely run back over the history of this Government and find when any man has refused an appointment to a judgeship on the Federal bench. Why? Because it is an office of high honor and furnishes a lifetime job with a good salary.

The judges of the supreme courts of the different States of the Union are not paid, as a rule, higher than these judges are paid. The average lawyer, from whom these men are taken, is not making a greater compensation a year, with more expense, than are these judges receiving for their salaries. When one of them is called away from his home in the discharge of his duty he receives an extra compensation. They have easy berths, and all are disposed to hold on to them. Now, why, when this Government is getting ready to sell bonds at an early date to raise money to defray its daily operating expenses, should we sit here and increase the salaries of these men $1,500 a year and increase the deficit in the Public Treasury, when they are already receiving an adequate compensation? Raise these salaries and you make it a scramble among lawyers for the purpose of obtaining the office for the salary alone and not for the high discharge of duty or patriotic purpose to serve the public. The qualifications in very many instances do not enter into the appointment or selection of these judges, but it is on account of association with the crowd that has the longest and best pull with the appointing power. This has been true in too many instances, very much to the detriment of the service. It is not the qualifications that are considered in too many instances so much, but it is what pull and influence the man can command in order to secure the appointment. The interests have figured prominently in too many appointments for the good administration of justice. This amendment ought to be defeated, and I hope it will be voted down, not only because it is an increase of salary not needed but because, also, it will not elevate the character of the judiciary of this country. [Applause.]

The advocates of increase of salaries for high offices always put it upon the ground that it would obtain a better class of talent. This argument is heard daily here, and yet no man points out an example where a single officeholder has resigned because of inadequacy of salary. If this were the controlling consideration in the acceptance of the office, examples would be furnished here of such cases during this discussion. None have been furnished, and for this reason we take it there are none, and take it none will ever be furnished until human nature is changed and ambitions are eliminated from mankind. [Applause.]

Mr. KEIFER. Mr. Speaker, I think I understand that the amendment pending now here, or one that is intended to be pending here, is a proposition to increase the salaries of circuit court judges from $7,000 to $8,500. I think that is a very reasonable increase, all things considered. I do not believe in high salaries for officials, and I do not believe in the extravagantly high salaries paid by corporations, and perhaps by individuals in some instances, to business managers, superintendents, and so on, such as they have in insurance companies and great corporations like the United States Steel Co., and I am not at all certain that these extravagantly high salaries always command the best talent and the men of the greatest probity. But I want to say a word for the circuit judges. They belong to one of the necessary branches of the Government of the United States, without which this country will be always in danger. If we lower the standard of the courts of this country, Federal and State, we lower the character of the Republic and in some degree endanger it. Now, gentlemen undertake to say that we have very properly raised our own salaries and should not raise the salaries of judges, and they talk about the question as though we are to measure these salaries by the talent displayed. That I do not think applies especially to the Congress of the United States, but passing that by, I understand that about the average length of service of the sessions of the Congresses, taking them together, is about 15 months of the 24 months of a term, leaving the other nine months for private business, and so forth. But the judges of the circuit courts have to devote their time, substantially all of it, unless it is the little summer vacation, to their responsible duties. They are cut off in a large sense from even taking care of their own domestic and private affairs. Seldom, if ever, can one of the judges be engaged in any sort of private business or have an interest in a private business at all, and if he does he is criticized, and he has no time to devote to it. These 30 circuit judges are burdened with certain responsibilities and we ought to pay somewhat in accordance with the responsibilities that are thrown upon them. Their importance is hard to measure. They deal with the life and the liberty of people; they deal with great business affairs; they are expected to interpret not only the laws that we pass here but the Constitution of the United States according to its letter and spirit.

These judges have to toil in their rooms, and toil everywhere, and there is no use in talking to me about the importance of giving high salaries to judges in order to increase their social life, for I think they have less of what we call popular up-top social life than any other class of people in the United States.

The SPEAKER. The time of the gentleman has expired. The gentleman from New York [Mr. MICHAEL E. DRISCOLL] is recognized.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, as one of the 261 attorneys in this body to whom the gentleman from Pennsylvania [Mr. GRAHAM] referred, I am opposed to any increase of these salaries. [Applause.] I come from a State, Mr. Speaker, in which large salaries are paid, and in which my colleague boasts that the largest salaries in the country are paid to judicial officers. My colleague from the city of New York wants to make it $10,000. New York City is great, rich, and powerful, and there is a stream of cash flowing into that metropolis from every part of the country and from every quarter of the world. Ten thousand dollars may not look like a large salary to him. The gentleman from Illinois [Mr. MANN] would compromise it at $8,500, because that represents the relative earning powers of the attorneys of that great city as compared with New York. My friends from Pittsburg, two of them, would make it $10,000 or more if they could. Pittsburg is a large

city. The people are wealthy, and they are levying tribute on the whole country and all the people thereof. [Applause.] I am not surprised that a salary of $6,000 or $7,000 looks small to a prosperous attorney of Pittsburg.

Mr. BURKE of Pennsylvania. Will the gentleman yield? You mean making contributions to the whole country.

Mr. MICHAEL E. DRISCOLL. I mean levying contributions on the business interests and the people of the whole country. I mean what I say, and it was prompted by what the gentleman from Pittsburg said. Now, why increase the salaries? The advocates say the present salaries are not large enough. Have they not been sufficient? John Marshall's salary at its highest was only $4,000.

I carefully read the hearings before the Committee on the Judiciary on the Moon bill. Mr. Hornblower, of New York, was a leader of the delegation that appeared before that committee. Their main argument was that the salary is not large enough, and yet, if I recollect rightly, Mr. Hornblower, a few years ago, was not only willing but anxious to take a place on the Supreme Court bench when the salary was not as large as it is now.

Mr. OLCOTT. Will the gentleman yield a moment? I would like to ask if that is any particular reason why Mr. Hornblower would not sacrifice himself by going on the Supreme Court bench? I did not understand what your argument was.

Mr. MICHAEL E. DRISCOLL. My argument is that it is a great honor, a great distinction, and a great opportunity to have a place on either the district court bench, the circuit court bench, or the Supreme Court bench—an honor for a man who has a competence that is much more than the salary.

Mr. OLCOTT. Why pay them at all if you say it is a man who has a competence?

Mr. OLMSTED. Would you shut out a man who has no competence?

Mr. MICHAEL E. DRISCOLL. No; the salary is enough to support a poor man in comfort, but not in luxury or extravagance.

Mr. PARSONS. The judges in my colleague's county are paid $10,000 a year, are they not?

Mr. MICHAEL E. DRISCOLL. They have been since a year ago last fall.

Mr. PARSONS. By constitutional amendment. Did my colleague oppose that?

Mr. MICHAEL E. DRISCOLL. I do not recollect. If I voted either way I voted against it, because I have not been in favor of increasing the salaries of the high official officers or employees or servants of the Government. I would commence at the bottom in the raising of salaries, if I commenced at all, and give——

Mr. PARSONS. Will my colleague yield? Can he not recollect on this important subject whether he voted for it or against it, or did not vote on it?

Mr. MICHAEL E. DRISCOLL. About two-thirds, perhaps three-fourths, of the voters never vote on constitutional amendments.

Mr. PARSONS. Did not my colleague vote on this important question?

Mr. MICHAEL E. DRISCOLL. I do not think I did.

Mr. PARSONS. How did my colleague vote on the question of the constitutional amendment in the State of New York this year to increase the salaries of the judges of the court of appeals?

Mr. MICHAEL E. DRISCOLL. I do not recollect as to that.

Mr. PARSONS. Is it possible my colleague has no recollection of that important matter?

Mr. MICHAEL E. DRISCOLL. I want to reply to my colleague.

The SPEAKER pro tempore (Mr. OLMSTED). The time of the gentleman has expired.

Mr. COX of Indiana. I ask that the gentleman may have five minutes more.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MICHAEL E. DRISCOLL. Since my colleague interrupted, I want to say this: A few days ago on the floor of this House he made a statement that the Federal judges are abler than the State judges. He said that the Federal judges were only receiving $6,000 and $7,000, while the State judges were receiving $17,500—$7,000 from the State treasury and $10,500 from the city treasury. Now, if the $17,500 will not secure as good service, as high an order of ability and character, as $6,000 or $7,000, why raise the salary? [Laughter and applause.]

Mr. PARSONS. That argument would apply to us. Why give Congressmen any salary?

Mr. MICHAEL E. DRISCOLL. Well, right there, I submit this proposition directly to this House, that the additional salary of 50 per cent which we paid to ourselves four years ago has not raised the character and personnel of this body one iota [laughter and applause], and it will not in the future improve the character or ability or usefulness of the Members of this House.

Now, since I am relieved from interruption and questions which make continuity of argument impossible, I will state in a more orderly manner the reasons why I am opposed to this salary increase, and in doing this I do not wish to be understood as criticizing or reflecting on the Federal judiciary as a body, or on any of its members, for whom I entertain a very high degree of respect and admiration.

Perhaps a large majority of young men at the time of their admission to the bar hope to become trial lawyers. The excitement of court work and the prompt decisions rendered by juries appeal to their young imaginations and aggressive impulses. They also hope to round out their professional careers with a term on the bench, either State or Federal, where they can enjoy the honor and dignity of the ermine and the respect that is always paid to an able and upright judge. This is especially true of those young men who engage in the study of the law as a profession and not as a business; who prefer the pleasure and exhilaration of highly intellectual work to the accumulation of large fortunes. Such men make the ablest and most honorable lawyers, and are the most reasonable in their fees. In their earlier years at the bar they are glad to prepare and try cases for no other compensation than experience and reputation, and in their later years they are glad to serve on the bench, where they may apply their legal learning, large experience, and mature judgment to the decision of causes, and for the honor and dignity of the position, paying but little attention to the salary that goes with the office.

But very few men are appointed to high judicial position under the age of 40 or over the age of 60. Assume that the average age is about 50. If successful as a practitioner, and fairly economical and thrifty, he will have accumulated a fair competency by that time. If unsuccessful in getting clients and making money up to that age, the chances are that the judicial salary is more than he would make during the remainder of his working years. If a lawyer has enjoyed a large and lucrative practice up to that time and has spent it, it is quite certain that he will continue to spend it to the end. Luxurious and extravagant tastes are not apt to be checked in this fast-living day and generation.

I would not care to be the client of an attorney who spends his money before he gets it and is always in debt. He is apt to measure his fees according to his necessities; nor is he just the kind of man who should be elevated to the bench, even if mentally qualified. The position and title of judge are looked up to, not only by the profession but by the people generally and he should be a model citizen as well as a learned, upright jurist; and there is an abundance of such men in every State and judicial district who are willing and anxious to serve on the bench without an increase of the present salaries.

No doubt there are many brilliant and successful attorneys who earn very large incomes and spend them like lords on themselves and families who can not accept Federal judgeships on the present salaries unless they or their wives have private fortunes, for they would not be contented or happy with the modest and comfortable living which those salaries provide. But the salaries fixed in the Moon bill or in this amendment would be no temptation to them; and there is no attempt to raise the salaries so high as to be an inducement to such men, who think more of large fees and grand and expensive living than of the honor and dignity of the office. The Government can not secure the services of those men, for they are not willing to make the financial sacrifice.

I look upon a place in the Supreme Court, or in the district or circuit court of the United States, as a position of very high honor and dignity, and especially as an opportunity for the right man to serve his country and leave his impress for good on its institutions by sound and righteous decisions and by doing his part to preserve the Constitution in its purity and vigor. I object to such a position and such an opportunity being measured by the dollar standard.

During the early years of my practice there was an elderly gentleman who sold apples and oranges in the front of the hall of the old courthouse in Syracuse. He was at all times so happy and cheerful that it occurred to me he was making good profits in his business. One morning I asked him how much he made. He answered, "About $2 a day—$1 in cash and $1 in pleasure." The ideal judge gets $7,000 a year in honor, dignity, and opportunity for welldoing and $7,000 in cash.

The ideal judge is a man who engages in the practice of law as a profession and because he loves the work; who is willing to make sacrifices that he may ultimately succeed, and is not bent on getting rich quick; whose word is as good as his written stipulation; who is candid with the jury, honest with the court, and courteous with his opponents, never hitting below the belt; who establishes a reputation for fair dealing and loyalty to his clients, builds up a practice with good ability and hard work, and saves a little money from year to year for his old age and for the maintenance of his family in case of his disability or death; who sticks to the practice of the law as his life work, and then, if judicial honors come to him, accepts the preferment for the dignity and recognition and better opportunity of rendering some enduring service to his countrymen. Such a man was the great John Marshall. Such were the very large proportion of the Federal judges since the adoption of the Constitution, who were glad to round out their professional careers on the bench, giving less thought to the salary than that the hopes and ambitions of their earlier days were realized. Those men were the judges who, by their honest and fearless decisions, maintained the integrity and independence of the judicial department and enjoyed the respect and confidence of their countrymen. The courts of to-day, with rare exceptions, are composed of such men, and there are plenty of lawyers of equally high character and ability and aspirations who will take their places when they are gone.

This amendment is only a part of the Moon bill reported from the Committee on the Judiciary, and I have carefully examined the hearings before that committee. Mr. William B. Hornblower, of New York City, was the chairman of a delegation who appeared before that committee in favor of the Moon bill, and he made the principal speech for higher salaries. Among other things he said:

> Yet these underpaid judges are called upon to decide cases involving millions of dollars, as well as great principles of law, and to construe the Constitution in new questions that arise, and they are expected to keep their judicial robes spotless from even the suspicion of corrupt motives, and they have, thank God, almost, if not quite, without exception, thus far lived up to this reputation. It is a matter of constant and growing amazement to me when I think of the weakness of our human nature and the proneness of men to yield to pecuniary temptation. It is, I say, a matter of constant amazement and growing amazement and constant and growing admiration for this body of men that, almost without exception—I do not say absolutely without exception, for there may be sporadic cases which have come under the notice of one or more of you gentlemen where there has been some suspicion—but, so far as my knowledge goes, without exception, and, so far as my information goes, almost without exception, these men who occupy the Federal bench have stood pure and upright. They have been called upon to dispose of property rights involving millions and they have frequently been called upon to make allowances to counsel and to referees far in excess of their own judicial salaries, and yet they have performed this duty with Spartan sincerity and simplicity.

I fully agree with Mr. Hornblower that "these men who occupy the Federal bench have stood pure and upright," but to me that is not a matter of "constant and growing amazement." They are exactly the type of men I have described. They were honest attorneys and they are honest judges; that is all. They are inherently honest men of stern integrity, and are proud of their positions and jealous of their reputations. They did not accept their high judicial positions because they were in need of the financial returns, nor do they measure them by the dollar standard. Does Mr. Hornblower imagine that an increase in salary would exalt the character of those men? Does he think that $3,000 a year would make a corrupt judge "pure and upright," or that he would not "yield to pecuniary temptation?" Did he ever know a man in whom love of gold was a passion and whose chief aim in life was the making of money who ever had so much that he did not want a little more? And does he not know of many men who esteem honesty above wealth and a fair name and fame above the high living which much money will provide? He may have intended the above statement as a compliment, but it impresses me as a reflection, not only on our judiciary but also on our citizenship. High character can not be purchased with money. It is the result of inheritance and good resolutions faithfully kept.

The next speaker before that committee was the Hon. Eugene B. Saunders, of New Orleans, La., who was put in evidence by Mr. Hornblower as an exhibit. He was a judge, but is not now, except in title by courtesy. He went on the bench in 1907 and inside of two years he resigned because, according to himself, he found it almost impossible to meet his current expenses with the current salary, and before he was on the bench a single year he was convinced that he would have to resign. He knew what his necessary expenses were when he went on the bench. He also knew what the salary was and had no assurance of an increase. Yet he accepted, and inside of two years resigned, capitalized his reputation, acquaintance with his brothers on the bench, and his title of "judge" and returned to practice, where I hope he is making good money. He and two or three others were the only judges these gentlemen could think of who ever resigned and returned to practice, which indicates that it is not at all difficult for the Government to get and keep good and competent men in its courts of justice.

It may be said of Judge Saunders that his recommendations are consistent with his record. He would raise the salaries of district judges to $12,000 a year, of circuit judges to $13,500 a year, and of Supreme Court Justices to $30,000 a year, so that the Government could compete with private interests in securing the best legal and judicial talent. He says:

> The Government is pursuing the policy of allowing the big corporations—the big aggregations of capital, the business interests of this country—to outbid the Government when it comes to getting legal services. The leading men, the leading lawyers, the ablest men in that respect, ablest in character, ablest in learning, are the men that the corporation gets, and the men who represent the corporations and business interests of this country as against the Government; and that is going to be increasingly and more and more the case as time goes on, for the expenses of living are increasing now. Can this great Government, when it goes into the market to bid for legal services, consent to have itself outbid by private citizens and private interests who are bidding for the same services? Is it possible that this Government is going to allow private citizens to offer better inducements to legal talent than the Government itself can afford to offer?

I do not question that those big corporations and big aggregations of capital do retain some of the ablest, shrewdest, and most resourceful lawyers to show them how they may evade, circumvent, and break the laws of their country with impunity; but I do not admit that they are the "ablest in character." That would be a reflection on the American bar, which I can not let pass unchallenged. Can it be that our profession has sunk so low that there are not in it some men who would refuse to assist those big aggregations of capital in establishing gigantic monopolies and industrial slavery, whatever may be the proffered fee? This is a utilitarian age, in which the dollar is esteemed too highly; and yet I have faith to believe that there are plenty of able and learned men in the profession of high character and commanding ability who would prefer fighting those big aggregations of capital and keeping them within the law, getting their pay principally in the consciousness that they are rendering a great service to their countrymen and to the Republic.

The Government does not have to go into the open market and bid for the services of the highest class men, or the men best fitted by character and attainments to become able and upright justices; nor until the ideals of our people are much lower than at present will it be compelled to do so. The ermine is a cloak of distinction. It is a very high honor to be called to the Federal bench, and the more important the cases and the greater the responsibility the higher is the honor. To the ideal judge the salary is an honorarium, while the dignity, power, and opportunity are the main considerations. The dollar mark is stamped on every sentence of Judge Saunders's address.

The Hon. John J. Herrick, of Chicago, was next called before that committee. He said he heard of a Supreme Court Justice who died leaving his family unprovided for. But has not that happened to many brilliant and successful lawyers who never served on the bench and to able men in all callings and all professions? Some great lawyers and judges are very poor business men. They indorse for their friends and make bad investments and lose their money faster than they make it. This exception proves the rule to be the other way. In his argument that the present salaries are inadequate, he says:

> How, then, can it be expected that with the other duties attending upon a judge, looking to the future, when he is asked to take these positions for life, that he shall leave the certainties of his practice and come into this position with all the chances and the difficulties of the future before him?

With all respect to Mr. Herrick, it seems to me that when an attorney is elevated to the bench he leaves all the chances and uncertainties behind him. He has a life tenure. He is the most independent and secure of any man I know of. He is not subject to the people's will, and changes of administration can not disturb him. He can not be removed except by impeachment and for glaring acts of misconduct. After he has served 10 years and has reached the age of 70, he may retire on full pay during the remainder of his days. The Federal judge is certain of an income for life, in the form of salary or pension, on which he can live, not in great style or extravagance, but with ease and dignity, and that is one of its attractions. On the other hand, the lawyer at the bar has no guaranty for the future. The corporation attorney may have a sure income as long as he stands in with the management, but a general practitioner's receipts vary from year to year according to the volume of his business and success in his cases, while his office expenses continue with embarrassing regularity. From every pecuniary point of view a promotion from the bar to the bench is a transition from uncertainty to certainty.

Again, as a rule lawyers are not "asked to take these positions for life." Federal judgeships have never gone begging, and I have no idea they ever will. Did you ever know of a vacancy for which there was not a multitude of candidates, many of them able, honest, and worthy men, who are not only willing but anxious to take the position for life? That is a very worthy and wholesome ambition, and I hope it will continue to animate the profession. The phase of the matter that makes me a little impatient is that some of these candidates, who strain every nerve and pull every wire for the appointment, are hardly warm in their seats when it occurs to them that the salary is inadequate, and instead of resigning they proceed to agitate and lobby for an increase. In these appointments the contract with their Uncle Samuel is one-sided. They may hold their positions for life, but they are not required to do so. They may resign, as Judge Saunders did, if they are not satisfied with the work or the pay.

The principal argument of Mr. Louis Brandeis, of Boston, was that since a judge should not deal in speculative ventures nor invest in what are known as business stocks, and that his investments should be in securities of a staple character, his salary should be raised. That limitation in investment would be greatly to his advantage. My experience and observation is that if all lawyers were prohibited from investing their savings in any but the best securities at a small rate of interest—Government bonds, if you please—they would, one with another, be much better off than they are now.

Mr. C. K. Offield, of Chicago, is a patent lawyer whose practice is entirely before Federal judges, and he naturally likes to be recognized as a friend of the court. He ridicules the additional appropriation that the Moon bill would require as a trifle, saying, "It does not compare with the value of the bone thrown by the housewife to her dog," and submits to the Congress the following swaggering and insulting proposition:

> If you can fix it we will pay the expenses, if that is the trouble with the United States Government. We will pay—and I speak for the patent bar and the patent lawyers and the litigants—we will gladly, without a murmur, and without feeling that it is a burden, pay this increase, as we call the pittance, to these Federal judges.

Mr. Edward Q. Keasley, of Newark, N. J., would have the salaries of Federal judges raised in order to set a standard for the States and enable them to increase the emoluments of their judges. Apparently he thinks the Federal judges are now quite well paid, compared with the salaries of the State judges.

My distinguished colleague, Mr. PARSONS, of New York, closed the case before the committee, and in his opening remarks said:

> There are only two arguments that I have heard against increasing the salaries of the Federal judges since I have been in Congress. One is that you can get judges for any salary. So can you get Congressmen. That argument is not a tenable one. The other one is that in some parts of the country the salaries which the Federal judges now get are greater than is the compensation earned by the leading members of the bar.

These are two excellent arguments, because they are true. Let me ask my colleague these questions: Four years ago we raised the congressional salaries 50 per cent. Has that improved the membership of either House? Has it made them more industrious, efficient, honest, or patriotic? Would not our colleagues from all over the country have continued in this House, if they could, without this increase of salary? Have any higher class men sought membership in either body since that increase? He is a candid, fair-minded man, and will be compelled to admit that the only possible benefit or advantage from that advance of salary would come to the Congressman. I will go further and say that if the increase of salary will have any effect on the personnel of this body, it will be to lower its general average in ability and character by tempting men to run for Congress who would be indifferent about it under the old salary; and the man who cares nothing for the honor or the opportunity of membership in this House, and comes only for the salary, will lower its standard. Also the man who seeks a place on the Federal bench only for the present or proposed salary will be no credit to it.

All the lawyers who addressed the committee, save Mr. Lamar, of Atlanta, Ga., and Mr. Braxton, of Richmond, Va., are from large and wealthy cities, where successful attorneys make large incomes, compared with which the judicial salaries are too small to be an attraction.

Hard-working and successful lawyers in smaller cities and towns must be contented with smaller incomes, because the amounts involved are smaller; but they, nevertheless, are as learned, able, and honest, and quite as good judicial timber. A salary that would approach the receipts of a leading lawyer in New York, Chicago, or Pittsburg would be unreasonably high in most parts of the country, for it would be out of all proportion to the incomes of the best lawyers, and that is not at all necessary to attract the fittest men to the bench.

According to the statements filed before the Committee on the Judiciary, the highest judges' salaries paid in 41 out of the 50 States and Territories of the Union, including Hawaii and the District of Columbia, are $6,000 or less; in 36, $5,000 or less; in 20, $4,000 or less; and in 16, $3,000 or less. It would not be fair, or is it necessary, to increase the present salaries of district and circuit court judges in order to secure the best talent in those 41 States and Territories. Envy and jealousy in the hearts of the State judges would immediately arise and they would proceed to inaugurate a campaign for increases. They would use the Federal salaries as a fulcrum to pry up their own. That is exactly what Mr. Keasley wants, and that is exactly what I do not want.

In the list of States the salaries of justices in New York are given as $17,500, which is a little disingenuous and misleading. Until a year ago the salaries paid by the State were $7,000, which was raised to $17,500 by the city government of New York and out of its own treasury. I have a notion that was the result of political influence, and was not necessary in order to get competent men.

The gist of all the arguments before the committee was that the present salaries are not enough; yet they are more than are paid the highest justices in most of the States, and very likely they are paying all they can well afford. It is enough to maintain any well-regulated family in comfort. It is enough, with the retirement pay and the security, honor, and distinction which go with the office, to secure the fittest men in every part of the country, for the fittest men for judges are not those who love money above honor and distinction.

President Taft was a Federal judge and a good one. He was young, strong, and able, and could have made much more money in the practice of the law in a large city. He had a family to support and educate. Yet he accepted a place on the bench and would have continued there had he not been called to more responsible and arduous work in the service of the Nation, where it was not possible to save a dollar, and he has been making financial sacrifices ever since, all because he is actuated by higher motives than the accumulation of wealth.

Senator ROOT presided at the convention of the New York State Bar Association held in Syracuse a few days ago at which higher judicial salaries were recommended, yet he has been in the service of the Nation during many years past as Secretary of War and Secretary of State, and now as Senator from New York. Why did he accept those offices? Were the salaries the prevailing inducement? Why did he argue the international case before The Hague Tribunal without money consideration? Why did Gov. Hughes accept the call to the Supreme Court? Why do our great Cabinet officers and Senators serve the Nation for mere pittances compared with their earning power? Why have men spent several times the congressional salary for seats in this House? The reason is obvious. They were glad to make the financial sacrifice for the honor and opportunity of high and responsible office. To them the making of money is not all there is of life. Strip those offices of the glamour and the honorable estimation in which they are held by our countrymen, reduce them to a money basis, and increase the salaries several times, could you fill them with as able, honest, and patriotic men?

The Moon bill, if enacted into law, will raise the salary of the presiding Justice of the Supreme Court from $12,500 to $18,500, of the Associate Justices from $12,000 to $18,000, of the circuit court judges from $7,000 to $10,000, and of the district court judges from $6,000 to $9,000. It is claimed that this additional expense is a mere trifle to this rich country, and that the Government should not hesitate to grant it. But this is only one of very many extra appropriations that are demanded at the present time. If the homely old adage, "Take care of the pennies and the dollars will take care of themselves," were more generally practiced, it would save many men from bankruptcy and many others from the poorhouse.

The civil employees of the Government, and there are about 384,000 of them, with rare exceptions are demanding higher pay and that a civil pension list be established. The war veterans are appealing for larger pensions. The Army and Navy think they should have more money, and the organized militia of the States insist that they be put on the Federal pay roll. Many of our people think we are not properly prepared for hostile attacks and are urging larger military and naval establishments and equipments. We are now receiving letters from commercial bodies recommending more expensive homes for our diplomatic representatives, which in turn will require larger salaries for their maintenance.

This is not all. Physicians are demanding a department of health, teachers a department of education, and the workmen a department of labor, each of which would require a small

army of employees who would constantly extend the sphere of their usefulness and the dimensions of their appropriations. Commercial bodies, business men's associations, and agricultural societies are holding conventions and adopting resolutions memorializing Congress to engage the Government in many new and expensive activities for the welfare of the people in general and of themselves in particular. Some want their shallow streams made into navigable rivers. Some want their canals dug. Some want their arid lands irrigated. Some want their swamps drained. Some want their mountains purchased and reforested, and some want their country roads constructed. Most of these things the States and civil divisions thereof should do for themselves. But they have got into the habit of calling on their Uncle Samuel as though gold fell into his coffers from the clouds, as manna fell from heaven to feed the children of Israel. This is only a partial catalogue of the demands made on the Federal Government through the action of Congress in addition to the necessary current expenses, which are considerably in excess of $1,000,000,000 a year, and we have got so far with the Isthmian Canal that it must be completed and fortified.

Judicial salaries are a small item compared with some of these projects, but a few hundred thousand here and a few millions there count up pretty rapidly. The cost of living is rising, and a fixed salary does not reach as far in the support of the family as it did a few years ago. I do not wish to compare our Federal judges with the Government civil employees in the lower grades, and yet those men are much more in need of increase of salaries than are the judges. Very few of them have been able to save anything, especially if they have families to support and educate, and they find it harder and harder to make ends meet. They are doing their work in their limited spheres as faithfully as are the officials higher up, and the men who are struggling to live and support their families on small incomes appeal to me quite as strongly as do the judges.

But there is another class of citizens whose rights and interests should be considered in every additional expenditure, viz, those who pay the bills. A few years ago, when the current receipts were in excess of the expenditures and a large surplus was in the Treasury, the raising of salaries and the many new and increased appropriations were looked upon with complacency by the masses of the people. It seemed as though that were favored as a good method of getting the money out of the Treasury and putting it into circulation. That condition no longer exists. The Government is facing a deficit and may be compelled to issue bonds to meet its current expenses. Governments, like individuals, should, under normal conditions, live on their incomes. The future will have its own burdens to bear. Every dollar that comes into the Federal Treasury is taxed out of the people in one form or another, and the vote last November indicated that they are beginning to realize it.

Beer is a cheap beverage and sugar a cheap food. Both are taxed, the latter heavily, from which about $125,000,000 are raised annually. Every pound of table sugar pays a tax of 1.9 cents. This is a tax from which the people would like to be relieved, but they can not be at the present time, for the revenue is necessary, and additional taxes will have to be levied unless the country is more conservative in its demands on the Federal Government. The Government is the steward of the people to administer the public affairs. The Congress is an important branch of the National Government, for it holds the purse strings. It levies the taxes and makes the appropriations. The masses of the people who pay those appropriations should be considered. This amendment would not entail a relatively large expense, but the principle obtains. Take care of the thousands and the millions will take care of themselves. This increase is not necessary. It would open the doors for a general raise of salaries of the high officials of the Government, which should not be done in the present condition of the national finances.

Mr. MOON of Pennsylvania. Mr. Speaker, I ask unanimous consent that anyone who desires to extend remarks in the RECORD upon this subject may be permitted so to do.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that any gentleman desiring to extend remarks upon this subject may have that privilege.

Mr. STAFFORD. Reserving the right to object, there should be a limit of days.

Mr. MOON of Pennsylvania. For five days.

Mr. BARTLETT of Georgia. Reserving the right to object, I ask that I may have permission to print in the RECORD on this subject of the increase of salaries for district judges a petition and memorial of the bar and business men of my home city and State. If this consent is given, then I will have no objection.

The SPEAKER pro tempore. Will the gentleman from Pennsylvania modify his request as suggested?

Mr. MANN. If consent is granted, the gentleman can insert it.

Mr. BARTLETT of Georgia. I want special permission to print this.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT of Georgia. The petition I referred to is from the mayor and council and city officers, county officials, judges of the courts, the chamber of commerce, Federal, State, and county officers, bankers, merchants, and prominent business men of the city of Macon, Ga. It is as follows:

MACON, GA., *January 17, 1911.*

To the Senate and House of Representatives of the United States:

The undersigned, citizens of the southern district of Georgia, respectfully represent to your honorable bodies that, in view of the increased cost of living and the increasing importance of their labors, the United States district judges have a just claim upon the country for an increase in their means of support at least equal to that recently and justly voted by the Members of Congress for themselves.

The case in this district is typical. The judge has jurisdiction in admiralty, common law, equity, bankruptcy, criminal law, antitrust law, interstate commerce, safety appliance, and similar laws; the appointment of United States commissioners, referees in bankruptcy, examination and approval of accounts of disbursing officers of the district. The probability is that these judges will soon be intrusted with all the jurisdiction of the circuit judges, except that of the Commerce Court. In population the district doubles the whole State of Florida, probably in wealth also. The entire seacoast of the State, with the third cotton port and the first naval stores port in the world; with the duty of trying such cases as that of United States *v.* Greene and Gaynor, for embezzlement of millions from the Public Treasury; of Tift *v.* The Railroads, to restrain and recover for arbitrary exactions of illegal combinations in increase of lawless rates, for their injunction, for actual recovery and restitution to shippers of several millions; of the rights of shippers against the initial line and connecting railroads under the Hepburn Act, just affirmed by the Supreme Court of the United States, affecting the commerce of the entire country; of United States *v.* Naval Stores Co., where the first sentence of imprisonment under the Sherman law was secured and affirmed on appeal. The President declares the great questions of the day are court questions. These are judges of original jurisdiction, without verdicts in their courts the appellate courts are helpless to enforce the law and protect the people. They are the only officers of the court whose expenses, while serving the Government away from their homes, are not paid. The Constitution provides that their salaries shall not be diminished during their term of office. In this district when the judge was appointed, 26 years ago, there were two divisions in the district; there are now five, with many terms of court. It placed new duties upon the judges involving absence from their homes and entailing great expense, and would seem to be such decrease. If the judge here was obliged to attend every term fixed by law his expenses would consume a large part of his salary. He does all of the work of the circuit court, except appellate work. The circuit judge has visited the district in the last quarter of a century but one time in every six years. The cost of living is about double. To keep out of debt, pay taxes, carry a modest insurance to protect his family is to drive a public servant, of the utmost importance to the people, to straits which no man with such responsibilities should suffer at the hands of a country to whose services nearly his entire manhood life has been devoted.

We respectfully petition that the district judges be at once granted an increase of salary equal to that enjoyed and earned by the Members of Congress.

Respectfully submitted.

John T. Moore, mayor city of Macon; R. Smith, city clerk; W. L. Wasne, Brotherhood of Locomotive Engineers; Hugh McKerry, justice of the peace; H. F. Holmes, city marshal; Roland B. Hall, inspector; A. W. Lane, city attorney; E. H. Mallory, attorney and member faculty Mercer Law School; H. V. Napier, jr., attorney at law; E. W. Maywood, attorney at law; R. L. Anderson, attorney at law; J. N. Talley, attorney at law; S. H. Heyward, jr., attorney at law; R. H. Smith, clerk city court; Walter A. Harris, attorney at law; R. D. Feagin, attorney at law; Julian F. Urquhart, attorney at law; H. Needeain, assistant postmaster; W. D. McNeil, attorney; Chas. Cork, attorney at law; C. A. Glowson, attorney at law; R. C. Jordan, attorney at law; Roland Ellis, attorney at law; Wm. H. Felton, judge superior court; Robt. K. Nisbet, clerk superior court, Bibb County, Ga.; John B. Harris, attorney at law; Joe I. Hall, attorney at law; Jno. R. L. Smith, lawyer; W. A. Thompson, lawyer; Lenoir M. Erwin, United States commissioner; Arthur H. Codington, assistant United States attorney; The Citizens' National Bank of Macon, Ga., by E. W. Stetson, president; J. Cray Murphy, vice president; J. N. Neel, vice president; Fourth National Bank, Macon, Ga., J. F. Heard, president; Chas. B. Lewis, vice president; Geo. R. Turpin, vice president; The American National Bank of Macon, by Sam E. Doty, cashier; Continental Trust Co., by R. J. Taylor, president; The Commercial National Bank, of Macon, Ga., by Cecil Morgan, vice president; Commercial Savings Bank, by J. J. Cobb, cashier; Macon Savings Bank, J. W. Cannon; H. T. Powell, cashier; president Macon Gas Light and Water Co.; J. E. Ellis; Geo. B. Jewett; J. I. Lord; W. F. Clark; J. A. Dunwody; A. S. Hatelen; H. L. Barfield; C. B. Withington, jr.; R. E. Willingham; R. H. Sissons; E. Tris Napier; A. A. Johnsen; C. W. Johnsen; Harry W. Freeman; J. L. Crump; J. A. Flournoy; W. A. Goodyear; I. E. Houser; B. T. Adams; L. Lavar; H. J. Lamar; Chas. H. Core; P. T. Anderson; A. R. Dunwody; W. W. Hertz; S. Lyman; F. Sprinz; F. S. Gutenberger; F. H. Powers; J. R. Holmes; G. H. Tharp; Frank P. Mansfield; W. I. Smart; Ben Martin; M. H. Taylor; S. C. Moore; W. A. Wilder; R. L.

Knight; J. E. Bailey; J. W. Rundell; Chas. A. Hilbun; Geo. Watson; J. M. Head; T. T. Middleton; Nat R. Winship; J. C. Edwards Co.; Sandersville Insurance Agency, J. M. New, manager; J. C. Robinson, manager Morris & Co.; W. K. Young; C. F. Middlebrooks; T. R. Hendricks; J. E. Jandon; James Platt; Gus Bennet; McAllister Isaacs; C. N. Pierce; W. T. Anderson; Harry C. Mix; Robt. S. Yang; Wm. Lee Ellis; R. D. Aultman; Ralph Harper; L. P. Lester; Max Lazarus; Chas. Wachtel; H. E. Gibson; Morris Putzel; Isidore Putzel; Richard P. Orme; T. Lee Floyd; J. B. Williams; G. G. Coffy; S. J. Mays; G. W. W. Reis; C. R. Pendleton; R. L. McKenney; Franc Mangum; T. J. Simmons, jr.; L. J. Kilburn; N. D. May; D. Nitman; L. M. Jones; T. L. Funderbark; W. W. Jones; Morris Harris; Isaac Herman; Geo. F. Wing; Gart Dohn; Hank B. West; G. W. Stratton; Eugene Anderson; W. W. Merriman; R. J. Taylor; Irving Pine; T. M. Jelk; W. D. Lamar.

Mr. GOULDEN. Mr. Speaker, being only a layman and business man, this proposition would seem from the discussion to affect only 261 Members of this House. It looks like a quarrel among the lawyers, and therefore it might be a good idea that others like myself, business men, keep out of this scrap. However, we have the same rights here, and therefore I shall undertake to say a few words. I find on examination that there has been no increase in the salary of the judges for seven years. In the meantime we have increased the salary of the President, members of the Cabinet, and that of Senators and Congressmen, and very properly, too, in each case. I do not agree with my distinguished friend and colleague from New York [Mr. MICHAEL E. DRISCOLL] in what he says, that there has been no improvement in the caliber of our Members. I wish to controvert that. I am one of those who voted for the increase from $5,000 to $7,500 for ourselves. I believed then, and am confident now, that it was the right thing to do. I was one of those who voted for all the increases, and do not regret it. The laborer is always worthy of his hire.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. GOULDEN. Certainly.

Mr. MICHAEL E. DRISCOLL. Have not those same men been able to come back?

Mr. GOULDEN. No. There is an exception in the speaker himself, who will retire voluntarily at the end of this Congress and give way to a new man. A number of good men in my district grew ambitious when the salary was increased.

Mr. MICHAEL E. DRISCOLL. Does the gentleman think the next man in his place will be an improvement?

Mr. GOULDEN. I believe the Sixty-second Congress will be an immense improvement over the present one, because it will be in the control of this side of the House—of the grand old Democratic Party. I believe that this $7,500 salary has had something to do with this improvement, as it has attracted a good class of superior men all over the country.

Mr. NORRIS. Will the gentleman yield for a question?

Mr. GOULDEN. No; I can not yield further, as I have but five minutes. I do not wish to be discourteous to the gentleman from Nebraska, but my time is limited. Now, Mr. Speaker, the salaries having been increased all along the line, it seems to me to be proper to increase the salaries of these judges, who are made up of the highest class of lawyers—and all lawyers of the House, I believe, belong to this class—because $7,000 is not a sufficient amount, in my judgment, to justify the right men in accepting these places, owing to the increased cost of living.

Now, as to the allegation that raising the salaries will bring about a different class of men, less worthy, to the bench—why, the President has honored this body within a year by selecting one from that side of the House in the person of the gentleman from Iowa [Mr. SMITH] for the circuit court bench, and on this side of the House by the selection of the gentleman from Texas, Mr. Russell, for the district court—both high-class appointments. I believe these men are of the highest character and in keeping with the appointments to the judiciary made by Presidents in the past. This reflects credit on our Chief Executives.

Take the supreme court in the State of New York, which my friend Mr. DRISCOLL represents in part; they are paying $17,500 to those judges, and I have no doubt the gentleman from New York is favorable to that, and yet with that salary it is impossible always to keep the men on the bench or induce the best men to accept the place. Only last year a distinguished judge of that bench resigned because the salary was not sufficient to enable him to educate a large family and live properly. If that is true there, it is true in every large city in the country, and I trust that this amendment increasing the salary of the circuit judges to $8,500 will prevail and that we will secure for this high office first-class men and that they may receive the compensation that they are entitled to. I am also in favor of raising the salary of the district judges. That should be increased to $7,500. There are 29 of the former and 90 of the latter. If the salaries are all increased $1,500, the total expenditure would be $178,000 yearly. On the other hand, a large saving in other directions will be made should this bill become a law. Taken all in all, these increases should be made in the interest of good government. [Applause.]

Mr. OLCOTT. Mr. Speaker, I do not wish to prolong this discussion unnecessarily, but I do wish to express my feeling that the salaries of the Federal judges should be increased. I will vote for this amendment, but would prefer to see the salaries fixed at $10,000. As a matter of fact, it is true that on many occasions superior men that the President has tried to get for the bench have declined to serve.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. OLCOTT. Certainly.

Mr. MICHAEL E. DRISCOLL. Is it not a fact that there was a vacancy on the bench in the eastern district in New York and that there were a dozen candidates, all good and able men?

Mr. OLCOTT. I have never known a vacancy to occur in any office, elective or appointive, that there were not dozens of men applying for the position.

Mr. MICHAEL E. DRISCOLL. And good men.

Mr. OLCOTT. It is not fair to ask practicing lawyers to abandon large income and place them on the bench, where their salaries are entirely inadequate. I mean it is not fair to the country. The gentleman from Nebraska, when he first spoke, suggested that this raise in salary from $7,000 to $8,500 was going to put the men in the category of taking the place on account of the money there was in it. I do not believe that any judge that was ever appointed to a Federal court took it for the money that was in it. I appeal to gentlemen not to put these judges in a position where they have to curtail their living expenses because they are not properly paid. It is not right. [Applause.]

Mr. SULZER. Mr. Speaker, this proposition to increase the salaries of the Federal judges is a matter of importance to the people, and I desire to say a few words about it. In my judgment the present salaries of our Federal judges are inadequate to the positions occupied and the great service rendered. We do not pay our Federal judges enough, and every person who has investigated the subject knows it. These learned Federal judges pass upon the most momentous questions of law and fact affecting the life and the property of the citizens of our country, and they should be paid wages sufficient to keep them from want and temptation. In the city of New York a police judge gets $10,000 a year and a circuit judge of the United States only gets $7,000. The comparison is absurd. Everybody knows it. These Federal judges must live according to their station, support their families, educate their children, and do it all on this meager $7,000 a year compensation. We expect too much. We are often penny-wise and pound foolish. The people of our country, regardless of politics, believe, in my opinion, that all the Federal judges—these wise and just and able men—whose labors are increasing every year, are not paid sufficiently for the great work they do, especially when we consider the tremendous responsibility which rests upon them in the administration of the great office they occupy. So far as I can learn, the taxpayers of the Republic have no objection to materially increasing the salaries of our Federal judges. They should have been advanced when all the salaries of other officials were increased. I favored it then, and said so, and because it was not done I voted against increasing my own salary.

That was the time to do it. I am willing to do it now, and for some time past I have indulged the hope that the Judiciary Committee would have the courage and the good sense to bring in a bill to materially increase the salaries of all the Federal judges of the United States. It should be done because it is just and right. We honor the Federal judiciary; we have confidence in the integrity, the ability, and the learning of our Federal courts. We should pay the judges decent salaries. To do less is unfair and merits rebuke and criticism from the people.

Mr. JAMES. Mr. Speaker, the other day the gentleman's colleague, Mr. PARSONS, of New York, asserted that the Federal judges in New York were far superior to the State judges, notwithstanding that the Federal judges got only $7,500 and the State judges $17,500. In that view of it, could we get superior talent for more money? The gentleman's colleague does not agree that that has been the result in the State of New York.

Mr. SULZER. Mr. Speaker, in reply to the gentleman from Kentucky, I want to say that if my colleague made such a statement I certainly do not agree with him. In my judgment, we have upon the bench in the State of New York as able and profound lawyers as there are in the country. That is

generally conceded. They are well paid, and I am glad of it. So far as I know, no taxpayer is finding fault. The people want judges learned in the law—honest and fearless—who will do justice to all, and they are willing to pay them decent wages. It is well known that our Federal judiciary is very poorly compensated, especially in view of the increased cost of living, and when we take into consideration the ability, the high character of the men occupying seats on the Federal bench, and the grave problems they are continuously called on to solve for the best interests of our country. We want the best men we can get on the Federal bench, and the people will find no fault if we pass a bill to pay them enough to live decently. That is all there is to it. But this is a proposition to increase the salaries of the circuit judges only fifteen hundred dollars a year. It is a small increase, and it ought to be granted. We ought not to quibble upon a little matter like this, all things considered, especially when we realize that we are expending millions and millions of dollars for purposes on which, if we desired, we could reasonably economize. We are too generous in big things; too small in little things. We should be just in all things.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. CAMPBELL. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman desire to speak for or against the amendment?

Mr. CAMPBELL. I desire to speak in opposition to the amendment.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Kansas.

Mr. CAMPBELL. Mr. Speaker, I have been waiting for some time for some one to give a real good reason for this amendment.

Mr. SULZER. Well, didn't I give a good reason for it? [Laughter.]

Mr. CAMPBELL. In all probability the gentleman from New York [Mr. SULZER] has convinced himself that he did give a good reason. However, it has not been shown to this House that $7,000 a year is not a sufficient salary for the circuit judges. In the first place, their expense is provided for, their books are purchased, their stationery is purchased, their office rent is free, and they are paid their traveling expenses and their hotel bills when they are away from home.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I can not yield. Much reference has——

Mr. TAWNEY. If the gentleman will permit, he is not exactly correct in his last statement about their being paid their expenses when away from home. They are not unless they sit in an adjoining circuit. In their own circuit they are not paid.

Mr. CAMPBELL. Oh, no; these are the circuit court judges about which I am speaking.

Mr. NORRIS. They are paid their expenses when away from home in their own circuit. These are the circuit judges.

Mr. TAWNEY. I was referring to the district judges.

Mr. CAMPBELL. This amendment refers to the circuit court. Much reference has been made to the increase in the salaries of the Members of the House. I voted against that increase, and I have not noticed very much difference in the annual savings of the Members' salaries. The hotels, the boarding houses, the apartment houses, and those who have houses to rent in Washington seem to have a system whereby they can collect from the Members of Congress about all of their salaries, whether it be $5,000 a year or $7,500. That increase is not an argument with me for this increase. Many good lawyers are always anxious to get on the circuit court bench. There is not a lawyer in this House who would not yield the position that he now holds, even if he knew that he would not have a contest during his natural life, for a position on the circuit bench.

Mr. BURKE of Pennsylvania. Well, here is one who would not.

Mr. HAMILTON. And here is another who would not.

Mr. CAMPBELL. That may be; but I venture the assertion that 90 per cent of the lawyers of the country would be glad to have the honorable position of a seat upon the circuit court bench at a salary of $7,000 a year or at a salary of $6,000 a year.

Mr. SULZER. And I suppose if a man was a rich man he would take it for nothing. I am in favor of the poor man getting a job now and then.

Mr. CAMPBELL. And some of the greatest opinions have been handed down by men who were serving for a smaller salary and for love of the position and love of the law.

The office of circuit court judge is of such dignity and character, and in its tenure and in the fact that after a service of years the judge may be retired at full pay, he does not need to worry about his living expenses, for he has enough to live upon comfortably. Any man can live comfortably on $7,000 a year in the United States. Thousands of men live decently and well on much less than that, and I am not in favor of increasing salaries to officials in the United States above a salary sufficient to provide for the comforts of the officers. These circuit court judges live as well as others in the communities in which they live, and the average income of the best citizens of the United States does not rise to $7,000 a year.

Mr. GOLDFOGLE. Mr. Speaker, I favor the proposed amendment, for, in my judgment, the salaries of the United States judges should be increased. I am surprised at the gentleman from Kansas [Mr. CAMPBELL], who has just taken his seat, suggesting that no salaries ought to be paid to lawyers willing to accept the honorable office of Federal judge. In the district from which I come——

Mr. CAMPBELL. I hope the gentleman from New York will not put me in the position of saying that I would pay no salaries.

Mr. SULZER. Will the gentleman permit a question?

Mr. GOLDFOGLE. I will.

Mr. SULZER. Mr. Speaker, I would like to ask the gentleman from New York to tell how much he got when he was district judge in the city of New York, years ago.

Mr. BENNET of New York. And what the salary is now.

Mr. GOLDFOGLE. The judges of the supreme court, which is the highest court of original jurisdiction, receive $17,500 per annum, and the judges of the municipal court in the city receive $8,000 per annum. We do not consider that we are paying any more than a fair and reasonable compensation for judicial service well performed. I do not know what salaries are paid to the judges of the higher State courts in Illinois, but I presume that in Chicago, from whence comes the gentleman who offered the amendment, the expense of living is comparatively as high as it is in New York.

To ask the Federal judges to perform their labors for a much less compensation than that paid to the judges in the State courts in these places is unfair. They deserve higher pay; they earn it fairly. Their present compensation is regarded, at least by the bar of my city, and I believe by the community generally, as inadequate.

Mr. MICHAEL E. DRISCOLL. Will the gentleman permit an interruption?

Mr. GOLDFOGLE. I will.

Mr. MICHAEL E. DRISCOLL. Is the gentleman aware of the fact that now in 41 out of 50 of the States and Territories of the Union, including Hawaii and the District of Columbia, the highest salaries paid judicial officers are $6,000 or less, and in 36 of those States and Territories the highest salaries are $5,000 and less, and in 20 of those States and Territories the highest judicial salaries are $4,000 and less?

Mr. GOLDFOGLE. I know that in some of the States the judges are underpaid. The cost of living has increased, and seems to be growing higher as time runs on. A judge must maintain himself and family in a manner becoming his station. A great Government, such as ours, should be willing to pay adequate salaries to men whose talent and legal attainments fit them for these high judicial and honorable positions.

Men whose ability and high professional standing fit them for the Federal bench, and who can command large fees at the bar, should be fairly remunerated. With the growth of the country, with the increase of commercial and financial conditions, there is an increase of litigation in the courts. The work of these judges is well and faithfully performed. The country owes it to itself to give sufficient pay for honest, able judicial service. To do less is to hold out little or no inducement to our judges to remain on the bench, when to return to practice at the bar they could earn probably ten times more. I trust that every gentleman of this House who appreciates the great value of a faithful, talented, and incorruptible judiciary will vote for the proposed increase.

Mr. PEARRE rose.

The SPEAKER pro tempore. Does the gentleman desire to speak for or against the amendment?

Mr. PEARRE. I desire to speak against the amendment.

Mr. Speaker, being one of the members of the bar of the House of Representatives who has very decided convictions on the policy of the Government provided in this amendment, I feel called upon to express my views to my colleagues in the House. I feel, Mr. Speaker, that this is a matter of such importance that it should be dealt with in a calm, dispassionate, and judicial fashion, and in what I have to say on the subject I shall endeavor to think upon it in that way and to treat it in that way.

Mr. Speaker, I am not one of those who would belittle the judiciary of the United States or the judiciary of any State, but I must say, Mr. Speaker, that there seems to me a little hysteria upon this subject of the judiciary in the United States recently—a hysteria, sir, which seems to lead public men and a great many of the people to a tendency to re-create the adage or maxim that "the king can do no wrong." Now, sir, we have done away with and eliminated in this world that maxim, under which absolute monarchy attained its consummation and greatest strength and tyranny, namely, that "the king can do no wrong." But do not let us make the grave error of substituting for that the maxim "the judiciary can do no wrong."

Being a member of the bar, Mr. Speaker, and the son of a judge who was a member of the bar of the State of Maryland and sat as a judge in the courts of that State for many years, I can claim in this question to be entirely impartial and unprejudiced, and if partial at all, partial to the judiciary and to the profession. But, sir, I believe that there should be no divinity which should hedge a judge any more than there should be a divinity which should hedge a king, but that the judiciary and the individual judges should have just as much respect as they earn by their attitude, by their ability, and the integrity which they display in the performance of their public duties. Do not let us, Mr. Speaker, run into the hysterical idea that simply because a man is taken from the bar and elevated above his fellow men to the bench, either by a popular election in the State, which is the system in the States, or by appointment to the Federal judiciary, which is the system and practice under the Constitution as to the Federal judges, let us not run into the error that simply because that elevation takes place the man is imbued with some peculiar afflatus from above which renders him not subject to just and proper criticism.

I think, sir, that the judiciary ought to have notice, not only in the States but in the United States, that they themselves, by their own conduct, by the display of ability, and by the exercise of integrity and honesty, must maintain the high standard of reverence for the law and for the great administrators of the law that should characterize the judiciary in this country.

Now, Mr. Speaker, I want to call attention to one or two matters to which attention has been called by other gentlemen who have addressed the House upon this subject, and especially to this: I am opposed to all these increases in salaries of men who now occupy exalted positions in the United States. Let us increase the salaries of the men who get the meager salaries. Here we have the appeal from the White House; we have it from the Cabinet; we have it in their reports; we have it in the message of the President; we have it in the reports of the heads of every department as they are successively made to this Congress to cut out all slack, to eliminate unnecessary expenses, to keep the expenses of the Government within the revenues of the Government, so as to avoid an issuance of bonds in a time of peace. That appeal has been wisely made; that appeal has been patriotically made. Therefore, Mr. Speaker, I appeal to my fellow colleagues in the House here not to disregard that by running into these wild extravagances. And if any increase can be justified let those increases be made, sir, in the increase of pay to the teachers and in pensions to the old soldiers.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PEARRE. Mr. Speaker, I ask unanimous consent that my time may be extended for five minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PEARRE. Mr. Speaker, if there be any increases, let those increases be in the way of a retirement fund for the teachers, which was defeated here the other day by depriving the District Committee of its just rights under the Constitution and depriving the citizens of this great District of its proper representation and its rights upon this floor. Let there be liberal pensions, Mr. Speaker, for the old soldiers; let there be increases in salaries, if you will, in favor of the rural free-delivery carriers, the letter carriers; in favor of post-office clerks and others.

Why does not the argument that there has been an increase in the cost of living apply with a great deal more force to those than to gentlemen, many of whom have independent means, and all of whom are now enjoying not only positions for life, without any fear for the future, but positions that pay them an adequate salary—$7,000 a year—with additional compensation defraying their expenses when they travel away from their homes, and a pension on retirement after they reach the age of 70, when they become superannuated, upon a full and unstinted salary?

Now, Mr. Speaker, the gentleman from Pennsylvania, I regret to say, has fallen somewhat into a hysterical method of considering this question; and in that hysteria it is rather natural for a gentleman representing the great, wealthy Commonwealth of Pennsylvania, and particularly the wealthy city of Pittsburg, where most men have dollars where the balance of us have cents [great laughter]—I do not wonder that the gentleman looks upon the present salaries as meager and therefore advocates larger salaries. But the gentleman fell into one error, Mr. Speaker. That error was when he said that the business was increasing by reason of Federal legislation which made a great deal of intrastate commerce, or what had been intrastate commerce, interstate commerce. The gentleman, however, overlooks this fact, that there is not a session of Congress when the Judiciary Committee does not report one or more bills providing for additional judges and erecting new districts to take care of the increasing Federal business arising from the conditions which the gentleman described.

Now, Mr. Speaker, gentlemen from New York have spoken eloquently upon this subject and referred us to the other States which have not seen fit to give these elaborate salaries to their State judges. But gentlemen from New York City must remember that New York City is the great emporium or financial center of the United States, to which cities and States represented by the other Members of this body pay continual and unending tribute financially. No wonder New York has seen fit to give its judges large and copious salaries from the treasury of the State.

Now, Mr. Speaker, the gentleman from New York [Mr. GOULDEN] said, referring to the very liberal salaries allowed to the judges of New York being commensurate with their duties, that he recognized that the judges are underpaid in other States. Why, if the gentleman reflects, he will see that most States of the Union, as my friend from New York [Mr. MICHAEL E. DRISCOLL] indicated and called his attention to, pay very much less salaries than New York. New York is the exception to the rule that is established in the other States; and if New York therefore pays its judges high salaries, there is no reason why that should constitute any analogical reason for the increase of salaries here.

Mr. GOLDFOGLE. Will the gentleman allow me to ask him a question? But before putting the question, we do not pay our judges too much; but does the gentleman——

Mr. PEARRE. The gentleman said the other judges were underpaid.

Mr. GOLDFOGLE. The Federal judges were underpaid.

Mr. PEARRE. The gentleman from New York said the State judges were underpaid.

Mr. GOLDFOGLE. They were, in my judgment, underpaid, especially having in mind the district judges, by reason of their great ability.

Mr. PEARRE. I yielded to the gentleman for a question.

Mr. GOLDFOGLE. Does the gentleman think that the salaries of the judges in such a district as, say, Chicago, St. Louis, San Francisco, and other sections in which large cities are located, are properly paid?

Mr. PEARRE. I am not familiar with the duties of those judges and I can not answer the gentleman's question; but I do say that if they are paid more than $7,000 they are paid too much. [Applause.]

Mr. GOLDFOGLE. Does the gentleman from Maryland think——

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. PEARRE. I am perfectly willing to answer the gentleman's question if I have the time.

Mr. GAINES. Mr. Speaker——

Mr. GOLDFOGLE. Does the gentleman from Maryland think that the sum of $7,000——

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. GOLDFOGLE. I ask that his time be extended for three minutes.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that the time of the gentleman from Maryland be extended three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. PEARRE. I will be glad to answer the gentleman's question if I can.

Mr. GOLDFOGLE. Does the gentleman think that a salary of $7,000 per annum is an adequate and a fair compensation to one who has so conducted himself at the bar as to win the approbation of the brethren at the bar and is capable of discharging his duties with ability and fidelity on the bench?

Mr. PEARRE. In answer to that question I will say unequivocally yes; it is ample compensation when you consider especially that the judges are appointed for life and are retirable at 70 years of age at full salary. [Applause.]

There is another feature which has been overlooked, and that is the honor of serving on the Federal bench has been minimized. Has it come to this point in the Government of the United States when honor is to be considered a bauble and everything is to be measured by dollars? God grant the day may never come when the judiciary of this country shall be tainted with that sort of poison. [Applause.] I believe there should be some sort of patriotic purpose in American citizenship, and I know as a matter of fact that the United States judges whom I know, and against whom I desire to submit no word of detraction, are as fully paid as they should be, and are being paid every dollar which their industry, their integrity, and their assiduous attention to public duties justify. [Applause.]

Mr. GAINES. Mr. Speaker, I am quite reluctant to engage in this discussion in view of the fact that it has been very much prolonged already. But my conviction is so firm that the Federal judges should be better compensated that I venture to ask the indulgence of the House to consider a little further the merits of the question.

The judiciary of this country is more important and more powerful than in any other great country in the world, arising from the fact that the judges of this country may hold an act of the legislative body unconstitutional. This is true in no other country, except in certain smaller countries which have adopted our system.

Now, as the gentleman from Pennsylvania has told us, the judges of England, the more important ones, receive salaries three or four or five times as great as are paid to the Federal judges in this country. The point I wish most especially to make is that the English system in this respect is more democratic than our own.

The Senate and House of Representatives of the United States are, I understand, the highest paid legislative bodies in the world. In England a member of Parliament serves without pay, and that is because in England they want their legislative governing body to remain in a particular stratum of their society; and service without pay on the part of members in the English Parliament is the most essentially aristocratic feature of the English Government, and it is the one aristocratic feature of the English Government outside of their hereditary monarchy and hereditary nobility.

When they pay such public servants as judges fair compensation for their services, then they are no longer a governing class of people, but public servants. The Government pays for what the people get, and that is the real system of democracy.

So far as I am concerned, I hope that this country will pay to all its public servants adequate compensation. Now, if I may for a moment touch another phase of this argument, insidious and plausible but not valid, let me make this suggestion to the House: The fact that we already pay Federal judges more than we pay certain clerks or rural free-delivery carriers is no argument against the increase of salary. In the smaller places under the Government the Federal Government pays more than the same services are paid for outside of the Government service. But when you come to the higher positions, in almost every instance the people, whether of the States or of the Nation, pay less than private persons pay. So far as I am concerned, I hope that the time is near at hand when, in addition to the honor that the office holds; when, in addition to that ambition that lawyers have to occupy high judicial stations, the Federal Government may compensate its servants somewhat equal to the great corporations of the country. I would like to see the public servants of the country able to cope with the servants of the corporations, and there, in my opinion, rest the true interests of the people.

Mr. PEARRE. Will the gentleman yield?

Mr. GAINES. Certainly.

Mr. PEARRE. Is it not true on the part of corporations that they are reducing the enormous and bloated salaries of their officers?

Mr. GAINES. And the gentleman from Maryland [Mr. PEARRE] says to me, "Is it not the tendency of corporations now to reduce the salaries of their officials?" But why does he ask that question? Because the Steel Corporation has reduced the salary of one of its officials from $100,000 a year to $50,000 a year. Mr. Speaker, we are talking about increasing a salary from $7,000 a year to $8,500 a year. If the judges had $100,000 a year, then I would say to reduce it much below $50,000 a year.

Mr. MICHAEL E. DRISCOLL. Is it not more honor to serve the Government than one of those steel corporations?

Mr. GAINES. It would be to me unquestionably, and——

Mr. MICHAEL E. DRISCOLL. Is it not?

Mr. GAINES. Mr. Speaker, I have answered the gentleman's question by saying that in my opinion it is.

Mr. MICHAEL E. DRISCOLL. Does not honor count for anything?

Mr. GAINES. It counts for very much with the gentleman and, I hope he will concede, with me.

Mr. CULLOP. Mr. Speaker, since this Congress qualified, two Members of this House have been appointed to Federal judgeships—Mr. Russell, of Texas, and Mr. SMITH, of Iowa. I desire to call the attention of the gentleman to this provision of the Constitution of the United States:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time.

Does not that constitutional provision disqualify both of these men from holding the positions to which they have been appointed during this Congress, if this amendment should pass?

Mr. GAINES. Mr. Speaker, I will say in answer to the gentleman that I am not able to say the last word on that question. I have given it some consideration, and I am inclined to think it does not disqualify, but that has nothing to do with this question. Even if I thought it did disqualify, I would still be in favor of giving the increase of salary to the Federal judges that they ought to have, even if we had to reduce the salaries of those particular judges in order to enable them to take their positions, just as we did that of the Secretary of State of the United States.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CULLOP. I would like to ask the gentleman one more question.

Mr. KENDALL. Regular order!

Mr. CULLOP. I ask unanimous consent that the gentleman's time be extended for one minute.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CULLOP. Mr. Speaker, does not this constitutional amendment clearly and concisely declare that neither of these men would be competent to hold that office if this amendment should pass, because of the increase of the pay of the offices to which they have been appointed?

Mr. GAINES. Mr. Speaker, I have already confessed my inability to say the last word on that question. I have said, however, that it would make no difference to me in my vote on the question before the House what the correct answer was. I said I thought it would be very proper to reduce, if necessary, the salaries of these particular judges referred to, as we did the salary of the Secretary of State.

Mr. TAWNEY. Mr. Speaker, if the number of circuit judges in the United States approximated the number of employees in the Government in the city of Washington, the gentleman from Maryland [Mr. PEARRE], who spoke a moment ago against this amendment, would have delivered an entirely different speech. There are but 29 circuit judges; there are 30,000 Government employees.

Mr. PEARRE. Will the gentleman yield for a question?

Mr. TAWNEY. I decline to yield. There are but 29 circuit judges in the United States, and the question of their compensation ought not to be determined by such appeals as have been made here to the prejudice of the House on account of the claims and demands that have been made by Government employees for increases of salary, and the fact that those increases have not in every instance been allowed. The office of a circuit judge of the United States is an honorable office, but the man who has no other means of support than the salary of the position can not live very long on the honor of the position; he can not educate his children on honor; he can not maintain himself or his family upon honor. That is not the rule that should govern the Congress of the United States in fixing reasonable compensation for public service.

The rule that should govern in determining what compensation should be allowed in consideration of the services rendered should take into consideration the character and the importance of the service rendered to the Government and to the people of the United States. That is the rule by which compensation should be measured. It is true that circuit judges have their traveling expenses paid when they hold court away from their homes within their own circuits; but every Member of this House knows that there is no man occupying a position of circuit judge or of district judge, who is dependent wholly upon his salary for his living, who can live in keeping with the dignity of the office which he holds and at the same time educate his children as he desires them to be educated, and as they ought to be edu-

cated, on $7,000 a year, even when his traveling expenses are paid.

Every man on the floor of this House who has children feels it is his duty to educate them, and he knows very well that at least one-fourth of the present salary of the United States judges is required annually to educate a single boy or girl in any of the colleges of the United States. Deduct from the salary of a Federal judge the amount necessary to educate two children, and what has he left to live on? Without an income independent of his salary he would have to resign. Every man on the floor of this House knows that a circuit court judge of the United States, living as his associates expect him to live, must necessarily and he does expend more than he receives from the Government. But, Mr. Speaker, there is another phase of this question. We are gradually drifting into a condition in this country where the public look upon a judicial officer as being next to incompetent for the position if he in any way mixes up or becomes identified with any industry or business, especially corporate business. He can not do it. The position of circuit judge or any Federal judge is to-day precluded by reason of public sentiment from participation in almost any industrial enterprise. The moment any one of them is known to be in any way connected with the business of any corporation, that moment their judgments are looked upon with suspicion and their usefulness upon the bench is impaired. If it were not for this absolutely false standard of judicial integrity, judges who are fortunate enough to have anything to invest might piece out their salary sufficient to make a decent living, a living in keeping with the dignity of the position they hold. I say, Mr. Speaker, that when we consider this question upon the basis of the services rendered, the position these men occupy and must occupy among their associates, $8,500 is not too much for the Government of the United States to pay for services of that kind, and I want to say that the Government of the United States is paying a great deal more in a great many instances for service where the service is not comparable in importance to the services rendered by judges of the United States courts. I sincerely hope, therefore, that this amendment will prevail and will be adopted. [Applause.]

Mr. EDWARDS of Georgia and Mr. RUCKER of Missouri rose.

Mr. RUCKER of Missouri. Mr. Speaker, I would like to say a word in opposition to the amendment——

The SPEAKER pro tempore. The gentleman from Georgia [Mr. EDWARDS] spoke to the Chair some time ago, and will now be recognized in opposition to the amendment.

Mr. EDWARDS of Georgia. Mr. Speaker, the main reason that has been urged here to-day in the debate upon this question to increase these salaries is that the cost of living is so very high. I think that within the next few months, perhaps, this reason might not exist, because I believe that when the Democrats get through revising the tariff downward the cost of living will not be so high. [Applause on the Democratic side.] Mr. Speaker, there are very few men in this body, and very few lawyers in the country, who are eligible to appointment on the Federal benches, who would not be ready and willing to-day or to-morrow, or at any time, to accept those positions at the present salaries and glad to get the place. We have heard from the great cities of New York, Chicago, and Pittsburg; but, Mr. Speaker, they do not make up all the country. There are other parts of the country to be heard from. The cities of New York, Chicago, and Pittsburg, and the other great cities of the country do not pay all of the taxes of the country. There are others who contribute to the taxes of this Government, and they have a voice in this matter. We have good men on the bench at present, at the present salary. At the age of 70 they are entitled to retire on full pay. They get their expenses as they travel over the country in the discharge of their duties. We hear of very few of them dying and none resigning from the bench at the present salaries. Before we begin to raise the high salaries of our officials we had better drop further down among the employees, who can hardly live upon the meager salaries they draw in this time of high prices. I, as much as any man in this House, want the country to have a safe and strong bench. I would like to see a strong district bench, a strong circuit bench, and a strong Supreme Court bench, but I do not believe, Mr. Speaker, that high salaries necessarily mean that we will get any better men appointed; and I, for one, am opposed to this proposed increase of the salary. [Applause.]

Mr. HOBSON. Mr. Speaker, I am in favor of this proposition, because, in my judgment, it is a sound business proposition in the interest of the best welfare of the Nation. We must command the Nation's best talent for the Federal judiciary. That judiciary is called on at this juncture to carry the principles upon which our institutions were founded into and through a new era precipitated by science, where they must be applied to new and changing conditions due to fundamental changes in the physical conditions, especially of transportation, affecting the relations of States to each other and to the Nation, and of individuals to the State and to the Nation. I do not believe that anyone will contest the proposition that when we are sure to have before the Federal judiciary the strongest talent of the Nation arrayed in ex parte debate and contention that there should be on the bench the strongest talent that the Nation can command to apply the principles of our institutions and the spirit of our laws.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. HOBSON. In a few minutes.

The second proposition is, How can we best command the highest talent of the Nation? I will submit this broad proposition, without discussing the question of the cost of living or the abstract level of the compensation to-day. I submit this broad proposition that can not be contested, that with the development of our civilization it has proved necessary in every department of human activity to progressively increase the compensation of men fulfilling any particular duty or function. This is seen in every department of business. It is seen in every department of the Government. We have applied it to the Supreme Court; we have applied it to members of the Cabinet; we have applied it to the Speaker and Vice President; we have applied it to Members of Congress. The proposition before us is to apply it to the Federal judiciary. It is a sound business proposition. Occasions for changes in salaries of Federal officials do not come very often.

Mr. HAMMOND. Will the gentleman yield?

Mr. HOBSON. In a moment. First, I will have to yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. HAMMOND. I wish to ask a question on this very line.

Mr. HOBSON. I will be very glad to yield to both gentlemen in a moment. I want to carry this logic to its conclusion, and then I will hear you.

The principle on which we can command the best talent is the principle that requires from time to time that the compensation should be increased. Such a bill as this will probably not come up again in a quarter of a century. The proposition to increase by $1,500 the salary is a comparatively small and reasonable increase. It does not compare in percentage to the increase that has already been applied to Members of Congress and other Federal officials mentioned. The effect of this legislation will be felt not so much after a man has entered the Federal judiciary, because surely he will give the best that he has to his country when he has finally entered its exclusive service, irrespective of compensation, but in the long run it will be felt when men come to make the choice as to whether they will accept an appointment which places a limit upon their earning power for all future time. Under those conditions, particularly if a man has a large family, he must give careful consideration to the question of compensation. If the principle of increase has not been followed, as in other callings, the country would be liable to lose the best men, the best talent, seasoned by experience, at the height of their earning power in private life. When such critical junctures arise, we ought to have the compensation of the judiciary sufficient to give an adequate inducement and to insure to the country the very highest talent in the Nation.

Now I will yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. MICHAEL E. DRISCOLL. Is it not true that in the gentleman's State of Alabama the best judicial talent is secured for the highest place in that State?

Mr. HOBSON. I will say to the gentleman that I believe to-day already in the city of Birmingham the Federal judiciary can not command the highest talent, and that, taking the Nation at large, full and by, the Federal judiciary in its compensation does not and can not to-day command the very highest legal talent of the Nation, and it is becoming more and more out of proportion just as our industrial life and our civilization advances.

Mr. MICHAEL E. DRISCOLL. But you do secure very good talent for the highest place?

Mr. HOBSON. Of course we do. If the gentleman's own salary were put back to $5,000, probably he would be here just the same.

Mr. MICHAEL E. DRISCOLL. Certainly I would, just the same as at $7,500.

Mr. HOBSON. Does the gentleman say that $7,500 is not correct and proper, and that in the long run, throughout the years, we would not need that salary to command the best talent for the House of Representatives just as for the judiciary?

I now yield to the gentleman from Minnesota [Mr. HAMMOND].

Mr. HAMMOND. When the gentleman is speaking of the number of increases that have been recently made, I desire to call his attention to the fact that Congress has passed, if I am not mistaken, upon one phase of this question. It has already created a Court of Commerce, to be made up of judges of the circuit court, and fixed their salaries, I believe, at $8,500.

Mr. HOBSON. The gentleman is entirely correct, and this House has very recently passed upon $8,500 as a fitting compensation for a judge of the rank of a Federal circuit judge.

Mr. MANN. And we have provided $9,000 for that new court, I will say to the gentleman from Alabama.

Mr. BURNETT. I will ask my colleague if it is not a fact that just last year one of the ablest lawyers of our State and a member of a firm of lawyers in Birmingham who get perhaps, the largest fees of any lawyers in the State, was appointed and accepted the position of district judge.

Mr. HOBSON. I think the gentleman's statement is correct.

Mr. HARDY. Mr. Speaker, I had hoped that possibly on this question we would be united in our vote on this side, but I see that hope is gone. I think there is a tendency to-day to build up a Federal official aristocracy. It seems strange to me that Members of the House seemingly recognize some kind of right by which Federal officials performing the same class of duties should receive higher salaries than State officials. The supreme court judges of my State, as I remember, receive a salary each of $4,000 a year. They have the same class of children to educate as the children of the Federal judiciary that were so eloquently referred to by the gentleman from Minnesota [Mr. TAWNEY] as being a reason why he favored this increase. He would increase the salaries of these Federal judges because, forsooth, they must educate their children along a scale of costliness suitable and in keeping with their dignity and station. The district judges in my State hold their positions for $3,000 a year, and must be elected every four years. The reason why the State salaries are held down is simple and plain. It is because the State legislator hears from the people and knows what his people want, and they hesitate or refuse to lay heavier and heavier burdens on the people, who must pay by direct taxation all the salaries of their servants; but here we are disposed to cut loose from the wishes and wants of our people and their comparative estimate of the value and worth of the services rendered, and to listen to the demand of every official who asks or urges that he be raised higher and paid more for his services in this official aristocracy. The taxes we pay for these larger salaries of Federal officialdom are not wrung from the people by direct taxation, but come indirectly; and because the people do not feel the weight of the tax or feel the fingers of the taxgatherer as they go down into our pockets we are assenting to higher salaries from time to time whenever the demand is made upon us with sufficient urgency. We raise the salaries of the judiciary to-day; we raise the administrative officers to-morrow; we raise the salaries of the military arm of the Government next day. The end will never come until we have an official aristocracy with life tenure in office. Life tenure is a thing that in itself ought to be a stench in the nostrils of every man who believes in the perpetuity of free government and the rule of the people. [Loud applause.]

Mr. CLAYTON. May I suggest to the gentleman that only four or five years ago, or about that time, we increased the salaries of the district judges from $5,000 to $6,000, and of the circuit judges from $6,000 to $7,000?

Mr. HARDY. And next year they will want $10,000. I thank the gentleman for the interruption. In my opinion, Mr. Speaker, the judges who are elected by the people stand in every way as high as the judges appointed by pull or favor or good fortune.

The fact is, Mr. Speaker, comparing the judiciary of the United States with the judiciary of the States, the State judiciary is just as able, yet the Federal judiciary receive twice what the judiciary of the States are receiving on the average. I make the statement here that the supreme judges of my State would be shining lights in the circuit courts of the United States, and would grace the Supreme Court of the United States, yet they get only half the pay, and they have their children to educate, too. [Applause.] And not only that, but, taking the entire bar of the State of Texas and of any Southern State, and I think of almost any of the States, there is not an able man among them who would not be glad to receive an appointment on the Federal circuit bench with the salary as it is to-day.

The average earning of able members of the bar is not as much as that salary; and yet because the money does not come from direct taxation, we are here listening to every request for an increase of salary, and there will be no end to these appeals for increases of salary until we have an official aristocracy in this country. [Loud applause.]

Mr. Speaker, when I speak of average earnings of able lawyers I do not mean those few attorneys who may represent the great and powerful corporations or special interests. It may be that great corporations pay more than the highest judicial salaries paid in this country. They want men of great talent and of great influence, and it has been suggested to me that possibly lawyers who have long and ably served these corporations at high salaries may be loath to take office under the Government at a very much lower pay; but if any man may fear that we may not be able to secure some of these great lawyers for our judges I want to say to him I shall not regret it. I do not criticize or censure any lawyer for representing great corporations, but candidly I prefer for the bench men whose lines have not fallen among the corporation barons, magnates, and potentates, but whose life and practice has been among the common people, whose scale of living and earnings have been on the common plane; and I know that among these lawyers of the common people—lawyers of the small towns, yes, and of the large towns, but of independent practice—you will find just as keen intellects, as able judges and as true, as among the higher salaried representatives of great interests and corporations. For one I am strongly opposed to raising the salaries of these lifetime judges, whose duties are not nearly so important as those of our State supreme judges, above $7,000 per annum for all the years they serve and for all the years they may live after they may have retired from the bench.

Mr. MANN. Mr. Speaker, I have never been enamored with high salaries for any class of Government officials, and I am not in favor of paying high salaries to the judges. A few years ago we increased the salaries of the district judges from $5,000 to $6,000, and of the circuit judges from $6,000 to $7,000. We increased the salaries of the Supreme Court judges, and also the salaries of the Cabinet officers. If we now increase the salaries of the circuit judges from $7,000 to $8,500 it will follow as a matter of course that we will increase the salaries of the district judges from $6,000 to $7,500; and there will be a way of doing that in conference or otherwise, because if this bill becomes a law the whole bill will go in conference; and I take it the conferees on the part of the House would accept it as a direction of the House if we increased the salaries of the circuit judges $1,500—to $8,500—that they increase the salaries of the district judges to $7,500 a year. It will follow also if we adopt this motion that we will increase the salaries of the Supreme Court judges; and if we increase the salaries of the Supreme Court judges it will necessarily follow (following, I think, the history of the country) that we increase the salaries of the Cabinet officers to the same extent.

The increase we made seven years ago was $1,000 a year. We all know as a matter of fact that $1,000 a year increase is not commensurate with the increased expense which the judges are put to in this day from what they were when the original $6,000 was fixed for the salary of a circuit court judge and $5,000 for a district judge.

There is no disagreement in this body that the judges ought to be paid a fair salary, such a salary as will permit them to live in comfort and educate their children. Now, what is the situation throughout the country? It is true that in many portions of the country the salaries now paid are quite sufficient to obtain good talent, sufficiently good talent, and salaries in many parts of the country now paid are fair salaries as compared with salaries paid by the States to the State judges. That is a fair comparison because we have no right to suppose that on the average our judges will be of a higher caliber than the judges of the State supreme courts.

But in some cities of the country it is absolutely impossible to say that the salary now paid to the district and circuit court judges is a fair salary in those cities. Six and seven thousand dollars is not a commensurate salary to pay in the city of New York. It is not sufficient in the city of Chicago; it is not sufficient in Philadelphia or Boston or various other cities of the country; and yet, I think that no one here would desire to make a distinction between a Federal judge in Kansas and a Federal judge in New York City as to salary. We go upon the principle that we pay these judges even salaries throughout the country; and that being the case, is it not fair that we pay to the judges in the large cities a fair salary? It is true that the judges are appointed for life, that they have no campaign expenses; it is true that they now receive salaries more than equal to the salaries of a Member of Congress; and yet the salary is not, in my judgment, a proper salary for the country to pay in the large cities.

I say this with some hesitation, because two of the judges in my city who have received as State court judges $10,000 a year salary have recently resigned, to be appointed, one on the district bench at $6,000, and one on the Court of Commerce, or circuit court, at $7,000. [Applause.] I presume that any of the

rest of them would have accepted the same appointment if they were able to secure it. And yet, that is not a fair test as to whether we pay a fair salary. It is not a test as to what salaries we pay ourselves. It is no argument in favor of increasing the salary of these men that we have increased our own. The question is, Do we pay them the reasonable salary which we ought to? We increased the salary $1,000, and in my judgment we can afford to increase it another $1,500, so that the increase altogether amounts to $2,500. That probably will settle this question for a long time to come.

I hope that the House will feel that it can at this time give this reasonable salary to these judges upon whom, after all, the integrity of our country under our form of government depends more than upon any other set of men or officials in the country. [Applause.]

Mr. MOON of Pennsylvania. Mr. Speaker, I was about to move that all debate on this section and amendments thereto close in five minutes and that I be allowed the time. I see the gentleman from Kentucky on his feet. Does he wish to speak?

Mr. HELM. I do.

Mr. MOON of Pennsylvania. Then, Mr. Speaker, I ask that all debate on this amendment be closed in 10 minutes, and the gentleman from Kentucky have five minutes and I have the remaining five.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that all debate on this paragraph and amendments thereto be closed in 10 minutes, of which the gentleman from Kentucky shall have five minutes and the gentleman from Pennsylvania five minutes. Is there objection?

There was no objection.

Mr. HELM. Mr. Speaker, this debate has taken a very wide range. It seems to be a kind of free-for-all, and I have concluded to take a chance.

A great deal has been said here on the floor that these salaries should be raised on account of the high cost of living. The Democratic Party is not responsible for the high cost of living. May I be permitted to remind this House that the men who are called upon to pay these continuous raises of salaries that this Congress is imposing upon the taxpayers of the country are also suffering from the increased cost of living, and that they have children to be educated as well as the officeholder? [Applause.]

I have recently noticed in the papers, Mr. Speaker, that the salary of the President of the great Steel Trust has been reduced from $100,000 per annum to $50,000 per annum. If this stupendous business corporation sees proper to reduce the salaries of its officers, it does occur to me that the prudent thing for Congress to do is not to increase the salaries of officers, but, if possible, to reduce them. Within less than one week this Congress has voted over $45,000,000 increase in pensions to the soldiers.

I dare say that there has not a day passed since Congress convened that there has not been some effort made somewhere along the line to increase the salaries of men who draw their living at the public crib. It is an endless-chain affair, and is does seem that the time has arrived when the brake should be set, when a halt should be called, and in the name of that vast horde, that great army of taxpayers, who are being bound down under the burdens of taxation—municipal, State, and Federal—I appeal to this House to vote against this amendment.

Mr. HOBSON. Will the gentleman yield for a question?

Mr. HELM. Certainly.

Mr. HOBSON. Did the gentleman vote for or against the $45,000,000 pension bill?

Mr. HELM. I voted against it.

Mr. HOBSON. I am glad to hear that. So did I.

Mr. HELM. I hear a voice saying that it did not affect my constituents. It did affect my constituents and, coming from a close district, it may perhaps affect my return to Congress, but I want to go on record here and now as not being one of those Members who endeavors here on this floor to strengthen his political fences by voting increases in salaries to any class of Federal employees. [Applause.]

Mr. MOON of Pennsylvania. Mr. Speaker, in concluding the debate upon this section and the amendments, I have very little remaining for me to say. The entire subject has been almost exhaustively discussed on both sides of this Chamber, but I want to recall the Members of this House to the concrete thing in which we are now engaged. This amendment is proposed to section 116, and provides for an increase of $1,500 a year to the salaries of the circuit judges of the country. The circuit court judges of the country to-day are 29 in number, and, therefore, this amendment will carry with it an increase of $43,500 as an additional tax upon this country. I desire also to call the attention of the House to the fact that by the act of 1891 the circuit judges of this country constitute practically nine supreme courts of the country.

The jurisdiction of those courts for final determination is very broad. It may be wise for Members to keep in mind that that act makes the decisions of these nine circuit courts of appeal absolute in all except a very few classes of cases, such as where the Constitution of the United States is involved, or the jurisdiction of the court is in question, or in prize cases. Therefore, this great series of courts, these nine circuit courts, officered to-day by 29 men, with these great responsibilities, will be given an increase of salary of $1,500 each.

Mr. Speaker, permit me to say to the House, and it seems to me it ought to have a great influence in deciding this question, that this amendment is an amendment to the pending bill for the codification of the laws relating to the judiciary. If this bill becomes a law the saving in the economic and systematic administration of justice provided by this bill will exceed $300,000 at least. The elimination of costly and useless machinery, the perfection of the system of the administration of justice will, by a moderate estimate, save a much greater sum than the amount required to increase the salaries of all of the judges of the United States courts as provided by the bill just reported by the Judiciary Committee.

Permit me to say one other word. It is of importance that we keep in consideration, I think, the historic relations of the compensation of these men to the other departments of the Government. It has been suggested that at one time Chief Justice Marshall served for $4,000 a year. That is true, and equally true that in those days Members of Congress got $8 a day for actual service rendered, so that a Member at that time would probably get not over $1,500 a year for his services as a Member of Congress.

Permit me to say also that never until the time of the increase of the salary of the Members of the House, never in the history of the country was there a time when the circuit court judge did not get a larger salary than a Congressman. That was the principle adopted by the framers of the Constitution; that was the principle that actuated all the men in the history of the country in selecting men for these offices, that they should receive a higher compensation than was paid to the Congress of the United States, because their position required them to devote their entire time to their judicial duties and precluded them from other lucrative occupation. Now, in every other department—executive, administrative, and legislative—increases from time to time have been made greater in proportion than the increases that have been made in judicial salaries, and it does seem to me, therefore, Mr. Speaker, this increase should be made in view of the fact that this will not become a law if adopted here unless the whole bill becomes a law, and when I state to you that the saving in this bill will infinitely more than compensate for all the increases not only in circuit court judges, but all the increases contemplated in any bill pending before Congress. I may state that if the Supreme Court Justices' salaries be increased to the extent of the amount proposed in the bill that has been reported by the Judiciary Committee; that if the circuit court judges and the district court judges, the Court of Claims, the Court of Commerce, the Customs Court of Appeals, the courts of the District of Columbia, the supreme court of the District of Columbia, are all increased proportionately, the total increase will be $260,500, and an accurate calculation shows that more than that amount of money will be saved by the enactment of this general law in the elimination of costly and useless judicial machinery now employed. The bar associations of at least 25 States have, with practical unanimity, recommended this increase, and I hope, Mr. Speaker, that this very moderate increase may be sustained by a vote of the House. [Applause.]

The SPEAKER pro tempore. The question is upon the amendment of the gentleman from Illinois to the amendment of the gentleman from New York.

Mr. MANN. And on that, Mr. Speaker, I demand the yeas and nays.

Mr. EDWARDS of Georgia. Mr. Speaker, may we have the amendments again reported?

The SPEAKER pro tempore. Without objection, the original amendment offered by the gentleman from New York and the amendment offered to it by the gentleman from Illinois will again be reported.

There was no objection.

The amendments were again reported.

The SPEAKER pro tempore. The question is upon the amendment offered by the gentleman from Illinois, and upon that the gentleman from Illinois demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 130, nays 157, answered "present" 9, not voting 89, as follows:

YEAS—130.

Adair	Durey	Hughes, W. Va.	Payne
Alexander, N. Y.	Dwight	Humphrey, Wash.	Peters
Allen	Ellerbe	Keliher	Plumley
Austin	Ellis	Knowland	Pratt
Barchfeld	Englebright	Lafean	Pray
Barclay	Fairchild	Lamb	Pujo
Bartlett, Nev.	Fitzgerald	Langley	Roberts
Bates	Foss	Lawrence	Rothermel
Bennet, N. Y.	Foster, Vt.	Legare	Rucker, Colo.
Bingham	Fuller	Livingston	Scott
Borland	Gaines	Longworth	Sheffield
Boutell	Gallagher	Lowden	Simmons
Bowers	Gardner, Mass.	McKinlay, Cal.	Steenerson
Burke, Pa.	Goldfogle	McKinley, Ill.	Sterling
Byrd	Goulden	McLachlan, Cal.	Stevens, Minn.
Calder	Graham, Pa.	McLaughlin, Mich.	Sulloway
Calderhead	Grant	McMorran	Sulzer
Cocks, N. Y.	Greene	Malby	Tawney
Conry	Guernsey	Mann	Taylor, Ala.
Cooper, Pa.	Hamer	Martin, Colo.	Taylor, Colo.
Craig	Hamilton	Massey	Taylor, Ohio
Creager	Hanna	Miller, Kans.	Tilson
Currier	Havens	Miller, Minn.	Townsend
Dalzell	Hawley	Moon, Pa.	Washburn
Davidson	Hayes	Morehead	Weeks
Denby	Heald	Morse	Wheeler
Dent	Higgins	Murphy	Wilson, Ill.
Diekema	Hobson	Needham	Wood, N. J.
Dodds	Howard	Nye	Woodyard
Douglas	Howell, N. J.	Olcott	Young, Mich.
Draper	Howell, Utah	Olmsted	Young, N. Y.
Driscoll, D. A.	Hubbard, Iowa	Parker	
Dupre	Hughes, Ga.	Parsons	

NAYS—157.

Aiken	Dickson, Miss.	Hull, Iowa	O'Connell
Alexander, Mo.	Dies	Hull, Tenn.	Oldfield
Ames	Dixon, Ind.	Humphreys, Miss.	Padgett
Anderson	Driscoll, M. E.	Jamieson	Page
Ansberry	Edwards, Ga.	Johnson, Ky.	Palmer, A. M.
Anthony	Esch	Jones	Pearre
Ashbrook	Estopinal	Joyce	Pickett
Barnard	Ferris	Kendall	Pou
Barnhart	Finley	Kinkaid, Nebr.	Rainey
Beall, Tex.	Fish	Kinkead, N. J.	Randell, Tex.
Boehne	Floyd, Ark.	Kitchin	Ransdell, La.
Booher	Focht	Kopp	Rauch
Burgess	Foster, Ill.	Kronmiller	Richardson
Burleson	Garner, Tex.	Küstermann	Robinson
Burnett	Garrett	Latta	Roddenbery
Byrns	Gillett	Lee	Rucker, Mo.
Campbell	Glass	Lenroot	Shackleford
Candler	Godwin	Lever	Sheppard
Cantrill	Good	Lindbergh	Sherwood
Carlin	Graff	Lively	Sims
Carter	Graham, Ill.	Lloyd	Sisson
Cary	Gregg	Loud	Smith, Tex.
Cassidy	Gronna	McDermott	Sperry
Chapman	Hamlin	McHenry	Stafford
Clark, Mo.	Hammond	McKinney	Stanley
Clayton	Hardy	Macon	Stephens, Tex.
Cline	Haugen	Madden	Thistlewood
Collier	Hay	Madison	Thomas, Ky.
Cooper, Wis.	Heflin	Maguire, Nebr.	Thomas, N. C.
Covington	Helm	Martin, S. Dak.	Tou Velle
Cowles	Henry, Conn.	Mays	Turnbull
Cox, Ind.	Henry, Tex.	Mitchell	Volstead
Cox, Ohio	Hill	Moon, Tenn.	Watkins
Crow	Hinshaw	Moore, Tex.	Webb
Crumpacker	Hitchcock	Morgan, Okla.	Weisse
Cullop	Hollingsworth	Morrison	Wilson, Pa.
Davis	Houston	Moss	Woods, Iowa
Dawson	Howland	Nelson	
Denver	Hubbard, W. Va.	Nicholls	
Dickinson	Hughes, N. J.	Norris	

ANSWERED "PRESENT"—9.

Adamson	Flood, Va.	Korbly	Slayden
Bartlett, Ga.	James	Moore, Pa.	Talbott
Bell, Ga.			

NOT VOTING—89.

Andrus	Garner, Pa.	McCall	Sherley
Bartholdt	Gill, Md.	McCreary	Slemp
Bennett, Ky.	Gill, Mo.	McCredie	Small
Bradley	Gillespie	McGuire, Okla.	Smith, Cal.
Brantley	Goebel	Maynard	Smith, Iowa
Broussard	Gordon	Millington	Smith, Mich.
Burke, S. Dak.	Griest	Mondell	Snapp
Burleigh	Hamill	Morgan, Mo.	Southwick
Butler	Hardwick	Moxley	Sparkman
Capron	Harrison	Mudd	Spight
Clark, Fla.	Huff	Murdock	Sturgiss
Cole	Johnson, Ohio	Palmer, H. W.	Swasey
Coudrey	Johnson, S. C.	Patterson	Thomas, Ohio
Cravens	Kahn	Poindexter	Underwood
Edwards, Ky.	Keifer	Prince	Vreeland
Elvins	Kennedy, Iowa	Reeder	Wallace
Fassett	Kennedy, Ohio	Reid	Wanger
Foelker	Knapp	Rhinock	Wickliffe
Fordney	Langham	Riordan	Wiley
Fornes	Law	Rodenberg	Willett
Fowler	Lindsay	Sabath	
Gardner, Mich.	Loudenslager	Saunders	
Gardner, N. J.	Lundin	Sharp	

So the amendment was rejected.

The Clerk announced the following pairs:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Mr. WANGER with Mr. ADAMSON.

Mr. BUTLER with Mr. BARTLETT of Georgia.

Commencing January 19, ending the session:

Mr. SLEMP with Mr. FLOOD of Virginia.

Until further notice:

Mr. JOHNSON of Ohio with Mr. GILL of Maryland.

Mr. FASSETT with Mr. GILL of Missouri.

Mr. BENNETT of Kentucky with Mr. HAMILL.

Mr. BURLEIGH with Mr. HARDWICK.

Mr. GARDNER of New Jersey with Mr. HARRISON.

Mr. HUFF with Mr. MAYNARD.

Mr. KENNEDY with Mr. PATTERSON.

Mr. LOUDENSLAGER with Mr. SPIGHT.

Mr. MONDELL with Mr. WALLACE.

Mr. RODENBERG with Mr. WILLETT.

Mr. LANGHAM with Mr. RHINOCK.

Mr. MCGUIRE of Oklahoma with Mr. UNDERWOOD.

Mr. MOXLEY with Mr. WICKLIFFE.

Mr. COUDREY with Mr. BELL of Georgia.

Mr. BURKE of South Dakota with Mr. SAUNDERS.

Mr. CAPRON with Mr. REID.

Mr. MCCALL with Mr. JAMES.

Mr. MILLINGTON with Mr. LINDSAY.

Mr. KNAPP with Mr. SHERLEY.

Mr. COLE with Mr. SPARKMAN.

Mr. PRINCE with Mr. GORDON.

Mr. SMITH of Michigan with Mr. CLARK of Florida.

Mr. MCCREARY with Mr. SHARP.

Mr. SOUTHWICK with Mr. TALBOTT.

Mr. BARTHOLDT with Mr. JOHNSON of South Carolina.

Mr. FORDNEY with Mr. BRANTLEY.

Mr. MURDOCK with Mr. GILLESPIE.

From January 25 to January 28:

Mr. WILEY with Mr. SLAYDEN.

From 3 p. m. to-day until Thursday noon:

Mr. LAW with Mr. SABATH.

Ending January 26, noon:

Mr. MOORE of Pennsylvania with Mr. SMALL.

Ending this day:

Mr. ELVINS with Mr. KORBLY.

For balance of day:

Mr. GARDNER of Michigan with Mr. FORNES.

Mr. KAHN with Mr. CRAVENS.

For this day:

Mr. GRIEST with Mr. BROUSSARD.

The result of the vote was announced as above recorded.

Mr. CLAYTON. Mr. Speaker, on the main amendment I demand the yeas and nays.

Mr. MANN. Mr. Speaker, I move to amend the amendment by striking out "ten" and inserting "eight."

Mr. EDWARDS of Georgia. Mr. Speaker, I raise a point of order. I believe it is subject to a point of order.

Mr. MANN. You have got another guess coming.

The SPEAKER pro tempore. The gentleman will state what his point of order is.

Mr. EDWARDS of Georgia. As I understand, the amendment is to the pending amendment.

The SPEAKER pro tempore. The Chair so understands it. The gentleman from New York [Mr. BENNET] heretofore offered an amendment making the salary $10,000. The gentleman from Illinois [Mr. MANN] now offers to amend that by changing the word "ten" to "eight." The question is on that amendment. On that the gentleman from Alabama [Mr. CLAYTON] demands the yeas and nays.

Mr. CLAYTON. No, sir; not on his amendment. I demanded it on the main proposition.

The SPEAKER pro tempore. The question is on the amendment of the gentleman from Illinois [Mr. MANN] to the amendment of the gentleman from New York [Mr. BENNET].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. LANGLEY. The yeas and nays, Mr. Speaker.

Mr. EDWARDS of Georgia. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 152, answered "present" 6, not voting 102, as follows:

YEAS—125.

Alexander, N. Y.	Bartlett, Nev.	Boutell	Byrd
Allen	Bates	Bowers	Calder
Austin	Bennet, N. Y.	Bradley	Calderhead
Barchfeld	Bingham	Brantley	Cocks, N. Y.
Barclay	Borland	Burke, Pa.	Conry

Cooper, Pa.	Goldfogle	McDermott	Pray
Cowles	Goulden	McKinlay, Cal.	Pujo
Craig	Graff	McKinley, Ill.	Reeder
Currier	Graham, Pa.	McLachlan, Cal.	Rothermel
Dalzell	Grant	McLaughlin, Mich.	Rucker, Colo.
Denby	Greene	Malby	Simmons
Dent	Guernsey	Mann	Steenerson
Diekema	Hamer	Martin, Colo.	Sterling
Dodds	Hamilton	Martin, S. Dak.	Stevens, Minn.
Douglas	Hanna	Massey	Sulloway
Draper	Hayes	Miller, Kans.	Sulzer
Driscoll, D. A.	Higgins	Miller, Minn.	Tawney
Dupre	Hobson	Mondell	Taylor, Ala.
Durey	Howard	Moon, Pa.	Taylor, Colo.
Dwight	Howell, N. J.	Moore, Pa.	Taylor, Ohio
Ellerbe	Howell, Utah	Morse	Tilson
Ellis	Hubbard, Iowa	Murphy	Townsend
Englebright	Hughes, Ga.	Needham	Washburn
Fairchild	Hughes, W. Va.	Nye	Weeks
Fitzgerald	Humphrey, Wash.	Olcott	Wheeler
Foss	Keliher	Olmsted	Wilson, Ill.
Foster, Vt.	Lafean	Parker	Wood, N. J.
Fuller	Lamb	Parsons	Young, Mich.
Gaines	Langley	Payne	Young, N. Y.
Gallagher	Lawrence	Peters	
Gardner, Mich.	Legare	Plumley	
Gardner, N. J.	Livingston	Pratt	

NAYS—152.

Adair	Dies	Hull, Iowa	Norris
Aiken	Dixon, Ind.	Hull, Tenn.	O'Connell
Alexander, Mo.	Driscoll, M. E.	Humphreys, Miss.	Oldfield
Ames	Edwards, Ga.	Jamieson	Padgett
Anderson	Esch	Johnson, Ky.	Page
Ansberry	Estopinal	Jones	Palmer, A. M.
Anthony	Ferris	Joyce	Pearre
Ashbrook	Finley	Kendall	Pickett
Barnard	Fish	Kinkaid, Nebr.	Rainey
Barnhart	Floyd, Ark.	Kinkead, N. J.	Randell, Tex.
Beall, Tex.	Focht	Kitchin	Ransdell, La.
Boehne	Foster, Ill.	Kopp	Rauch
Booher	Garner, Tex.	Kronmiller	Richardson
Burleson	Garrett	Küstermann	Robinson
Burnett	Gillett	Latta	Roddenbery
Byrns	Glass	Lee	Rucker, Mo.
Campbell	Godwin	Lenroot	Shackleford
Candler	Good	Lever	Sheppard
Cantrill	Graham, Ill.	Lindbergh	Sherwood
Carlin	Gregg	Lively	Sims
Carter	Gronna	Lloyd	Sisson
Cary	Hamlin	Loud	Smith, Tex.
Chapman	Hammond	McHenry	Stafford
Clark, Mo.	Hardy	McKinney	Stanley
Clayton	Haugen	McMorran	Stephens, Tex.
Cline	Hay	Macon	Sturgiss
Collier	Heflin	Madden	Thistlewood
Cooper, Wis.	Helm	Madison	Thomas, Ky.
Covington	Henry, Conn.	Maguire, Nebr.	Thomas, N. C.
Cox, Ind.	Henry, Tex.	Mays	Tou Velle
Cox, Ohio	Hill	Mitchell	Turnbull
Crumpacker	Hinshaw	Moon, Tenn.	Volstead
Cullop	Hitchcock	Moore, Tex.	Vreeland
Davis	Hollingsworth	Morgan, Okla.	Watkins
Dawson	Houston	Morrison	Webb
Denver	Howland	Moss	Weisse
Dickinson	Hubbard, W. Va.	Nelson	Wilson, Pa.
Dickson, Miss.	Hughes, N. J.	Nicholls	Woods, Iowa

ANSWERED "PRESENT"—6.

Adamson	Bell, Ga.	James	Korbly
Bartlett, Ga.	Flood, Va.		

NOT VOTING—102.

Andrus	Gill, Md.	Lowden	Sharp
Bartholdt	Gill, Mo.	Lundin	Sheffield
Bennett, Ky.	Gillespie	McCall	Sherley
Broussard	Goebel	McCreary	Slayden
Burgess	Gordon	McCredie	Slemp
Burke, S. Dak.	Griest	McGuire, Okla.	Small
Burleigh	Hamill	Maynard	Smith, Cal.
Butler	Hardwick	Millington	Smith, Iowa.
Capron	Harrison	Morehead	Smith, Mich.
Cassidy	Havens	Morgan, Mo.	Snapp
Clark, Fla.	Hawley	Moxley	Southwick
Cole	Heald	Mudd	Sparkman
Coudrey	Huff	Murdock	Sperry
Cravens	Johnson, Ohio	Palmer, H. W.	Spight
Creager	Johnson, S. C.	Patterson	Swasey
Crow	Kahn	Poindexter	Talbott
Davidson	Kelfer	Pou	Thomas, Ohio
Edwards, Ky.	Kennedy, Iowa	Prince	Underwood
Elvins	Kennedy, Ohio	Reid	Wallace
Fassett	Knapp	Rhinock	Wanger
Foelker	Knowland	Riordan	Wickliffe
Fordney	Langham	Roberts	Wiley
Fornes	Law	Rodenberg	Willett
Fowler	Lindsay	Sabath	Woodyard
Gardner, Mass.	Longworth	Saunders	
Garner, Pa.	Loudenslager	Scott	

So the amendment was rejected.

The following additional pairs were announced:

Until further notice:

Mr. DAVIDSON with Mr. BURGESS.

Mr. FORDNEY with Mr. FORNES.

Mr. WOODYARD with Mr. HARDWICK.

Mr. LOWDEN with Mr. WALLACE.

Mr. HAWLEY with Mr. HAVENS.

Mr. MOREHEAD with Mr. POU.

Mr. HEALD with Mr. SMALL.

Mr. KNOWLAND with Mr. SPARKMAN.

The result of the vote was then announced as above recorded.

Mr. CLAYTON. Mr. Speaker——

The SPEAKER pro tempore. The gentleman rises for what purpose?

Mr. CLAYTON. To move the previous question on the amendment offered by the gentleman from New York.

The SPEAKER pro tempore. The question recurs on the amendment offered by the gentleman from New York, and upon that the gentleman from Alabama moves the previous question.

The question was taken, and the previous question was ordered.

Mr. CLAYTON and Mr. NORRIS. I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. CLAYTON (interrupting the call). Mr. Speaker, I want to inquire as to the parliamentary status.

The SPEAKER pro tempore. The roll call is upon the amendment offered by the gentleman from New York.

Mr. CLAYTON. That is what I understood.

The SPEAKER pro tempore (continuing). Which, without objection, will be read again.

Mr. CLAYTON. There was a misunderstanding here, and that is the reason I asked the question.

The Clerk read as follows:

Page 120, line 18, strike out "seven" and insert "ten," so as to read "$10,000."

The SPEAKER pro tempore. The Clerk will begin the call of the roll again.

The question was taken; and there were—yeas 50, nays 217 answered "present" 7, not voting 112, as follows:

YEAS—50.

Alexander, N. Y.	Denby	Graham, Pa.	Olmsted
Allen	Driscoll, D. A.	Hayes	Parker
Austin	Dupre	Higgins	Parsons
Barchfeld	Dwight	Howard	Peters
Bartlett, Nev.	Ellis	Keliher	Pujo
Bennet, N. Y.	Englebright	Knowland	Stevens, Minn.
Borland	Fairchild	McKinlay, Cal.	Sulzer
Boutell	Foss	McKinley, Ill.	Tawney
Bradley	Gaines	McLachlan, Cal.	Thomas, Ohio
Burke, Pa.	Gallagher	Malby	Tilson
Calderhead	Gardner, Mass.	Massey	Washburn
Conry	Goldfogle	Moon, Pa.	
Dalzell	Goulden	Olcott	

NAYS—217.

Adair	Draper	Hull, Tenn.	Palmer, A. M.
Aiken	Driscoll, M. E.	Humphrey, Wash.	Payne
Alexander, Mo.	Edwards, Ga.	Jamieson	Pearre
Ames	Ellerbe	Johnson, Ky.	Pickett
Anderson	Esch	Jones	Plumley
Ansberry	Estopinal	Joyce	Poindexter
Anthony	Ferris	Kendall	Pratt
Ashbrook	Finley	Kinkaid, Nebr.	Rainey
Barclay	Fish	Kinkead, N. J.	Randell, Tex.
Barnard	Fitzgerald	Kitchin	Ransdell, La.
Barnhart	Floyd, Ark.	Kopp	Rauch
Beall, Tex.	Focht	Kronmiller	Reeder
Boehne	Foster, Ill.	Küstermann	Richardson
Booher	Foster, Vt.	Lafean	Robinson
Bowers	Fuller	Lamb	Roddenbery
Brantley	Gardner, N. J.	Langley	Rucker, Colo.
Burgess	Garner, Tex.	Latta	Rucker, Mo.
Burleson	Gillett	Lawrence	Scott
Burnett	Glass	Lee	Shackleford
Byrd	Godwin	Lenroot	Sheppard
Byrns	Good	Lever	Sherwood
Calder	Gordon	Lindbergh	Simmons
Campbell	Graff	Lively	Sims
Candler	Graham, Ill.	Lloyd	Sisson
Cantrill	Grant	Loud	Smith, Tex.
Carlin	Greene	McDermott	Sparkman
Carter	Gregg	McHenry	Stafford
Cary	Gronna	McKinney	Steenerson
Cassidy	Guernsey	McMorran	Stephens, Tex
Chapman	Hamer	Macon	Sterling
Clark, Mo.	Hamilton	Madden	Sturgiss
Clayton	Hamlin	Madison	Sulloway
Cline	Hammond	Maguire, Nebr.	Swasey
Cocks, N. Y.	Hanna	Mann	Taylor, Ala.
Collier	Hardy	Martin, Colo.	Taylor, Colo.
Cooper, Pa.	Haugen	Martin, S. Dak.	Taylor, Ohio
Cooper, Wis.	Hay	Mays	Thistlewood
Covington	Heald	Miller, Kans.	Thomas, Ky.
Cox, Ind.	Heflin	Mitchell	Thomas, N. C.
Cox, Ohio	Helm	Mondell	Tou Velle
Craig	Henry, Conn.	Moon, Tenn.	Townsend
Crow	Henry, Tex.	Moore, Tex.	Turnbull
Crumpacker	Hill	Morgan, Okla.	Volstead
Cullop	Hinshaw	Morrison	Vreeland
Currier	Hitchcock	Morse	Watkins
Davis	Hollingsworth	Moss	Webb
Dawson	Houston	Murphy	Weisse
Dent	Howell, Utah	Nelson	Wilson, Pa.
Denver	Howland	Nicholls	Wood, N. J.
Dickinson	Hubbard, Iowa	Norris	Woods, Iowa
Dickson, Miss.	Hubbard, W. Va.	Nye	Young, Mich.
Diekema	Hughes, Ga.	O'Connell	Young, N. Y.
Dies	Hughes, N. J.	Oldfield	
Dixon, Ind.	Hughes, W. Va.	Padgett	
Dodds	Hull, Iowa	Page	

ANSWERED "PRESENT"—7.

Adamson	Bell, Ga.	Korbly	Rothermel
Bartlett, Ga.	James	Moore, Pa.	

NOT VOTING—112.

Andrus	Garner, Pa.	Longworth	Sabath
Bartholdt	Garrett	Loudenslager	Saunders
Bates	Gill, Md.	Lowden	Sharp
Bennett, Ky.	Gill, Mo.	Lundin	Sheffield
Bingham	Gillespie	McCall	Sherley
Broussard	Goebel	McCreary	Slayden
Burke, S. Dak.	Griest	McCredie	Slemp
Burleigh	Hamill	McGuire, Okla.	Small
Butler	Hardwick	McLaughlin, Mich.	Smith, Cal.
Capron	Harrison	Maynard	Smith, Iowa
Clark, Fla.	Havens	Miller, Minn.	Smith, Mich.
Cole	Hawley	Millington	Snapp
Coudrey	Hobson	Morehead	Southwick
Cowles	Howell, N. J.	Morgan, Mo.	Sperry
Cravens	Huff	Moxley	Spight
Creager	Humphreys, Miss.	Mudd	Stanley
Davidson	Johnson, Ohio	Murdock	Talbott
Douglas	Johnson, S. C.	Needham	Underwood
Durey	Kahn	Palmer, H. W.	Wallace
Edwards, Ky.	Keifer	Patterson	Wanger
Elvins	Kennedy, Iowa	Pou	Weeks
Fassett	Kennedy, Ohio	Pray	Wheeler
Flood, Va.	Knapp	Prince	Wickliffe
Foelker	Langham	Reid	Wiley
Fordney	Law	Rhinock	Willett
Fornes	Legare	Riordan	Wilson, Ill.
Fowler	Lindsay	Roberts	Woodyard
Gardner, Mich.	Livingston	Rodenberg	

So the amendment was not agreed to.

The following additional pairs were announced:

Until further notice:

Mr. DAVIDSON with Mr. FORNES.

Mr. PRAY with Mr. HARRISON.

Mr. BINGHAM with Mr. HOBSON.

Mr. HOWELL of New Jersey with Mr. LEGARE.

Mr. WEEKS with Mr. LIVINGSTON.

Mr. MOORE of Pennsylvania with Mr. SMALL.

Mr. FORDNEY with Mr. ROTHERMEL.

Mr. DOUGLAS with Mr. STANLEY.

Mr. LONGWORTH with Mr. GARRETT.

Mr. HAWLEY with Mr. HUMPHREYS of Mississippi.

The result of the vote was then announced as above recorded.

The SPEAKER pro tempore. The question now recurs on the amendment offered by the gentleman from New York [Mr. PARSONS] which the Clerk will report.

Mr. PARSONS. Mr. Speaker, before we pass on that I wish to offer another amendment which comes in ahead of it.

The SPEAKER pro tempore. Does the gentleman from New York desire to withdraw the amendment he has offered?

Mr. PARSONS. No; but the one which I am about to offer comes in ahead of it.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to postpone the consideration of the amendment which he has already offered and proceed to the consideration of the one he now sends to the desk and which the Clerk will report.

Mr. EDWARDS of Georgia. Mr. Speaker, I reserve the right to object. Is it not a fact that the previous question moved on this subject awhile ago cut off all amendments thereto

The SPEAKER pro tempore. The Chair understood the previous question to be ordered only on the amendment pending at that time, which was the amendment offered by the gentleman from New York [Mr. BENNET].

The Clerk read as follows:

Amend section 116 by adding after the word "monthly," line 18, the following:

"And a circuit judge of a circuit, the circuit court of appeals of which is annually held in a city or county with over 1,000,000 inhabitants, shall receive an additional compensation of $5 per day."

Mr. PARSONS. Mr. Speaker, I have offered that amendment because a number of the Members who have voted against the amendments to increase the salaries of the judges of the circuit court have told me that they thought that in the large cities where the cost of living is greater the salaries ought to be increased, whereas in the country at large there ought to be no increases.

This amendment would raise the salaries of the circuit court judges in the second, third, and seventh circuits. According to section 124, which we have adopted, the circuit court of appeals would be required to be held in New York for the second circuit, which has over a million inhabitants; in Philadelphia for the third circuit, which has over a million inhabitants; and in Chicago for the seventh circuit, which has over a million inhabitants. If you will compare the increase which this would give with the salaries now being paid to the State judges in those cities you will find that it is about on a par with the smallest and less than the two larger ones.

In the city of New York the State judges receive a salary of $17,500. This increase would give the circuit court judges in New York an additional compensation of $1,825 per year, a total of $8,825, or about half what the State judges there receive. In Philadelphia the State judges now receive a salary of $8,500 at least; so that these judges would be on a par with the State judges there. In Chicago, I understand, the State judges receive a salary of $10,000; so the circuit court judges in Chicago, if my amendment is adopted, would receive less than the State judges do.

For many years it was the custom to grade the salaries of the Federal district judges according to locality. It was not until 1893 that the district judges were given the same compensation throughout the country. In fact, in New York such discrimination existed that, until the last Congress, when I offered a bill to cut it out, the judge of the eastern district of New York received an additional compensation of $1,800 a year.

Mr. CLAYTON. Will the gentleman yield?

Mr. PARSONS. With pleasure.

Mr. CLAYTON. Is it not a fact that the gentleman from Illinois said in the debate this afternoon that two of the judges that the gentleman from New York has referred to resigned their State judgeship, with a salary of $10,000 per annum, to accept a Federal judgeship—one of $6,000 and the other for $7,000?

Mr. PARSONS. I do not recollect such a statement. What has happened in New York is that a district judge resigned a Federal judgeship to accept a State judgeship.

Mr. CLAYTON. If the gentleman from New York will yield I would like to ask the gentleman from Illinois if it is not a fact.

Mr. PARSONS. I will yield.

Mr. MANN. Judge Carpenter, on the State bench in Chicago, resigned his position with a salary of $10,000 to be appointed a Federal district judge. He was a Republican. Judge Mack, a Democrat, has just been appointed to a circuit court judgeship to go into the Court of Commerce at a salary of $7,000. His salary was $10,000.

Mr. PARSONS. I introduced a bill, which was referred to the Judiciary Committee, which was designed to grade salaries of the district and circuit court judges according to the locality in which they live.

I did this in the belief that the cost of living was greater in the large cities than in the other cities, and I believe that if this amendment that I have offered is adopted it will result in more just salaries to the men who have to live in the large cities, because where the circuit court of appeals is held is where the circuit judges have to live most of the time.

Mr. EDWARDS of Georgia. I wish to ask the gentleman if, upon the same theory, it would not be just as fair to say that the Members of this House who happen to reside in large cities ought to receive larger salaries than the Members who live in smaller towns or in the country.

Mr. PARSONS. Of course that argument can be made; but the fact is that although the salaries of the Members of the House have always been uniform for 70 years, the salaries of district judges were not uniform. They varied according to localities, and it was not until 1903 that a change was made in that respect; and, besides, all the Members of the House have to live in the city of Washington. In New York we also have this peculiar situation in regard to district judges: Every district judge in the second circuit sits in New York City a good deal of the time, I think for at least six weeks, and receives $10 a day extra compensation for so doing, but the resident district judges, who have the expense of keeping themselves and their families there all the year round, receive no extra compensation.

The SPEAKER pro tempore. The Chair will ask the gentleman from New York to suspend for a few minutes. The attention of the Chair has been called to the fact that by unanimous consent, on request of the gentleman from Pennsylvania [Mr. MOON] in charge of the bill, all debate on this section and all amendments thereto was ordered to close in 10 minutes, which time long ago expired.

Mr. PARSONS. Mr. Speaker, I never understood that any such request was made. There is another amendment which I have pending, in which many Members are interested, which I supposed would receive some considerable attention. I am quite sure that the gentleman had not in mind cutting off discussion on that amendment.

The privilege given to all Members to extend their remarks in the RECORD on the subject of increased salaries for judges leads me to add something here in that regard.

The basis on which the Government should fix salaries should not be that somebody can be got for the money. We could get plenty of men in the civil service as post-office clerks and car-

riers, as rural free-delivery carriers, and as customs and other laborers for less, even, than we pay now.

The Government should not base its pay for them on that principle, but on the principle that it should be a model employer, and therefore should pay suitable salaries and wages. It is on that principle that we raised the pay of the post-office clerks and carriers in the first and second class cities in the second session of the Fifty-ninth Congress. On that principle the pay of the laborers in the New York customhouse was raised. On that principle the Post Office Committee sought to get some increase of pay for the laborers in the post office. On that principle we have just increased the pay of the rural free-delivery carriers. That principle applies to the great mass of employees. It is the dominant principle that we apply in determining their salaries, although, of course, enough must be paid in every case to secure the men.

When it comes to selecting men in the nature of experts, such as judges and scientists, a different principle is the dominant one. The Government should pay suitable salaries, but it should also pay enough to get the best men. It should be able to command the very best talent. The ablest man for a certain job may be unwilling to take it unless he is paid by the Government the same compensation that he would receive from private employers. He may take that attitude on principle, because he thinks that the people should learn that if they wish the best service they should pay for it. To pay less than private employers pay is to handicap the people and deprive them of the opportunity of securing the best service.

All the talk that we hear about low salaries being in the interest of the people is only worthy of Col. Buncombe. Low salaries for experts are only against the interests of the people. The real interests of the people are not in the salaries that are paid, but in the work that is accomplished. The people's interests demand, first and foremost, efficiency in work. If money must be paid for experts to secure efficient service, it is the people's loss if the money is not paid. True it is that the people do not realize this. We have in regard to it the same prejudice that used to exist in cities against employing a schoolteacher or expert of any kind from outside the city.

The people who wanted the jobs and considered that the all-important consideration made the public opinion on the question and handicapped their localities in securing the best talent. That theory is gradually passing away. The idea that low salaries for experts are in the interest of the people is on a par with it, and it is to be hoped that it, too, will pass away.

Governmental activities are greatly increasing. We have very little measure of their cost and comparative efficiency. But it requires no figures to show that it can be no saving to the people to have mediocre men in charge. And low salaries are more likely to get mediocre men than the best experts. It is all very well to talk about the honor of serving the public, but honor does not educate a man's children, and a man may very well ask why the people at large, commanding the greatest ability to pay, should offer him less than he is worth to a private undertaking. The more cities, counties, States, and the Federal Government enter into business activities, the more important will it be that suitable salaries be paid, so that the best experts can be obtained.

So busy are we, so intricate are our problems, that we do not often realize the value of a man, the benefit to a locality of a genius who can solve problems. The difference without him is not easily imagined, but that it exists we know. In war it has often been remarked upon. Gen. Lee said that he could have won the battle of Gettysburg if he had had Stonewall Jackson there to take Cemetery Ridge at the close of the first day's fighting. The genius of Jackson, could he have been there, might have changed the course of history. I think it is said in connection with the same campaign that if Gen. Grant had been in command of the Federal troops, and had had Sheridan to attack Lee on the retreat, Lee could have been prevented from recrossing the Potomac and the war would have been ended many months before it was.

The value of individuals to a people is a repeated story in the Old Testament. The great danger that besets popular government is that the people at large will be unmindful of the need for excellence, will not seek it out, will not recognize it when it appears, and will not offer it sufficient inducements. The test of democracy, as has been said by President Hadley, of Yale, is its ability to choose experts. Judges are experts, and the Government should have the means at hand for securing the very best talent, which it can not now secure, at least in the great cities of the East, such as New York, Philadelphia, and Chicago. By that I do not mean to say that the judges there are not capable men. They are. But the field from which to choose is not as large as it should be. Any lawyer knows the tremendous saving to litigants that there is in able judges, who are industrious and dispatch business. Our judicial system, State and Federal, compared to that of England, is ridiculous. With much fewer judges to the population, justice there is dispatched with a promptitude and certainty, both as to civil and criminal cases, that is undreamed of here. While there are many causes contributing to this, I believe it is due more than anything else to our failure to select the most capable and most experienced men for the bench, and that the evil will not be cured until we are able to command such men for judicial office and do secure them.

Mr. AUSTIN. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The regular order is demanded. The time for debate has expired. The question is on the amendment offered by the gentleman from New York.

Mr. MANN. Mr. Speaker, I hope that statement will not go as official that debate on this paragraph and all amendments thereto has been cut off, because that was not the understanding on the floor, I think. There is a very important amendment that has been laid over, that has nothing to do with this question that is still pending.

Mr. AUSTIN. Mr. Speaker, the gentleman having charge of the bill did ask unanimous consent that all debate on the paragraph and amendments thereto should be closed in 10 minutes, and I demand the regular order.

The SPEAKER pro tempore. The Chair will ask the gentleman from Pennsylvania [Mr. MOON] what the fact is in regard to that.

Mr. MOON of Pennsylvania. Mr. Speaker, my recollection is that my request was made in the form in which the Chair has stated it, that all debate upon that section and all amendments thereto should close in 10 minutes. That is my recollection of the form of the request. Of course, I did not have in mind at all at the time the fact that a pending amendment of an entirely different character to this section had not been taken up. While I put it in that form, my own intention was not to exclude consideration of the other pending amendment—not the one now pending, but the other one of which the gentleman from New York has spoken.

Mr. EDWARDS of Georgia. What is that amendment?

Mr. PARSONS. That amendment was to the effect that these circuit judges should be constituent elements of the district court—a totally different subject.

Mr. CLAYTON. Mr. Speaker, a parliamentary inquiry. After the gentleman from Pennsylvania [Mr. MOON] had preferred the request to close debate on the amendment that has not yet been read, the gentleman from New York asked that that matter be laid aside to offer the amendment which he is now discussing. What I wish to know is, if that does not abrogate the original position that the House was in, according to the request made by the gentleman from Pennsylvania.

I would ask if it is not a new matter and if the gentleman from New York is not entirely within his rights in now addressing the House on the amendment which has been read.

The SPEAKER pro tempore. The Chair will state that the gentleman from Pennsylvania [Mr. MOON] has asked unanimous consent that debate should close in 10 minutes on the pending amendment and all amendments thereto. Now, the gentleman from New York [Mr. PARSONS] had an amendment pending. He asked unanimous consent that that might be held over for the present and offered another amendment which he desired to offer, and has offered. The Chair is of opinion that does not abrogate the agreement upon which the House had entered upon the request of the gentleman from Pennsylvania. It is now within the province of the House—— [Cries of "Regular order!"]

The SPEAKER pro tempore. Regular order is demanded, and the question is upon the amendment offered by the gentleman from New York.

Mr. EDWARDS of Georgia. Mr. Speaker, I ask that the amendment may be reported again.

The SPEAKER pro tempore. Without objection, the amendment will be reported again.

There was no objection.

The amendment was again reported.

The question was taken; and upon a division (demanded by Mr. PARSONS) there were—ayes 31, noes 86.

So the amendment was rejected.

The SPEAKER pro tempore. The question now is on the other amendment offered by the same gentleman, which the Clerk will again report.

The amendment was read, as follows:

Amend section 116 by adding at the end thereof, after the word "circuit," in line 19, page 120, the words "and shall have throughout his circuit the powers and jurisdiction of a district judge."

Mr. MANN. I ask unanimous consent, Mr. Speaker, that the gentleman may have five minutes.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the time of the gentleman may be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. PARKER. Mr. Speaker, may I ask the gentleman from New York to grant me leave to offer an amendment to the amendment before he begins his speech? I would like to offer it now so as to have it in the RECORD.

The SPEAKER pro tempore. Will the gentleman from New York suspend until the gentleman from New Jersey offers an amendment to the amendment, which the Clerk will report?

Mr. PARSONS. Certainly.

The Clerk read as follows:

Amend the amendment of Mr. PARSONS as follows:
"Insert after the word 'and' the following words, 'as well as the circuit justice.' The sentence will then read as follows: 'Each circuit judge shall reside in the circuit and as well as the circuit justice shall have throughout his circuit the powers and jurisdiction of a district judge.'"

Mr. HUBBARD of West Virginia. Mr. Speaker, I desire to offer a substitute to the amendment, which I ask to be read for information.

The SPEAKER pro tempore. Without objection, the substitute amendment which the gentleman proposes to offer to the amendment will be reported for information.

Mr. HUBBARD of West Virginia. I am offering the amendment now as a substitute.

The SPEAKER pro tempore. Is there objection? Does the gentleman from New York yield for that purpose?

Mr. PARSONS. I do.

The SPEAKER pro tempore. The Chair hears no objection, and it will be reported.

The Clerk read as follows:

Substitute for amendment proposed by Mr. PARSONS to section 116:
"District court shall be held by a circuit judge of the circuit or by a district judge duly appointed or designated for the district sitting alone, or by such circuit judge and district judge sitting together. When such judges sit together the judgment or decree shall be rendered in conformity with the circuit judge. Cases may be heard by each of the judges holding a district court sitting apart by direction of the circuit judge, who shall designate the business to be done by each."

Mr. PARSONS. Where does the gentleman's amendment come in?

Mr. HUBBARD of West Virginia. It should come in properly at the end of the chapter relating to district courts. That, however, I believe, has been passed, and I would not be permitted to offer it as an amendment here. I offer it instead of the language of the proposition of the gentleman from New York, the purpose being to provide what the powers of the district and circuit judge will be when you make him a district judge, but the circuit judge shall be superior and shall distribute business between the judges, all of which is not provided for in the amendment proposed by the gentleman from New York.

Mr. PARSONS. Mr. Speaker, when we considered the chapter in regard to district judges, I said that when we reached the chapter in regard to circuit judges I would offer some amendment, and therefore I offered the amendment which has been read and which provides at the end of section 116 that each circuit judge shall sit within and shall have throughout his circuit the powers and jurisdiction of a circuit judge. Unless this amendment is adopted, then the only times when the circuit judges can be used for trial work, or work other than appeal work, will be the times when under the authority of section 18 of the act they are by order required to hold the district court.

Perhaps in some circuits, and perhaps in my own, the second circuit, that provision is sufficient, because so much of the time of the circuit judges is taken up with appeal work. But in the circuits generally there is not enough appeal work to occupy all the time of the circuit judges, and, therefore, if the circuit judges are to be occupied as fully as they should be, then they should be required to do trial work, motion work, and chambers work, just as the district judges are.

In the Attorney General's report we find in Exhibit 11 the number of cases disposed of during the preceding year in each circuit court of appeals. The largest work is done by the second circuit, my own circuit, where the circuit court of appeals last year disposed of 315 appeals; but in the first circuit the circuit court of appeals disposed of only 57 appeals. In other words, four circuit judges in the second circuit did an average of 78 appeals per judge, whereas in the first circuit the circuit judges did an average of only 19 appeals per judge.

Circuit Judge Lowell, of the first circuit, believes that some such amendment as this should be adopted, so that the time of the circuit judges will be fully occupied, whereas the circuit judges of the second circuit believe that they will be fully occupied if the provision contained in section 18 is the only provision in the bill requiring them to do trial or motion work. But if you will examine this table in the Attorney General's report you will find that there are a number of circuits where the circuit judges ought to have a good deal of time at their disposal to do trial work, and, therefore, if we adopt this amendment, in those circuits we will be economizing, and we will be using as much as we can all the judges that we now have.

Mr. HUBBARD of West Virginia. Will the gentleman from New York permit an inquiry?

Mr. PARSONS. I will.

Mr. HUBBARD of West Virginia. The difficulty, in my mind, is how to work it out if you make the circuit judge a district judge, or give him the powers of a district judge. If there be a difference of opinion between those judges as to which should try a given case, how is that to be determined?

Mr. PARSONS. That is determined by section 23.

Mr. HUBBARD of West Virginia. I think the gentleman will find that section relates only to those districts in which there is one district judge, and does not reach the trouble in most of the districts of the country.

Mr. PARSONS. Then we could amend that so as to make it apply throughout all the districts. I think very likely that should be amended, and I have drawn an amendment to that section, in case my amendment is adopted.

As against 315 appeals decided in the second circuit, 218 were decided in the eighth, the next largest amount of business. Then comes the ninth circuit, 131; the sixth circuit, 129; the fifth, 121; the fourth, 97; and the third, 85. So that in most of the circuits not half as many appeals are considered by the circuit court of appeals as were considered by the circuit court of appeals of the second circuit. And I infer from that there must be time in those other circuits at the disposal of the circuit judges which could be made available to litigants. For that reason I think we ought to put in this amendment, so that circuit judges, as they have the time, will be required to do trial work and motion work, and also chambers work.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. PARSONS] has expired.

Mr. MOON of Pennsylvania rose.

The SPEAKER pro tempore. The Chair will state to the gentleman from Pennsylvania that debate is not in order.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the rule heretofore adopted limiting debate on this section be vacated, so far as this amendment and all amendments thereto are concerned. It is too important a matter to determine without debate.

Mr. MOON of Pennsylvania. I join in that, Mr. Speaker, because it was not my intention in making that request to conclude argument on this question.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. PARKER] asks unanimous consent that the order heretofore made by the House closing debate upon this paragraph and all amendments thereto shall be vacated, so as to permit of debate on the pending amendment and all amendments thereto, or in the nature of substitutes therefor. Is there objection?

There was no objection.

Mr. MOON of Pennsylvania. Mr. Speaker, as the gentleman from New York has already stated, this amendment proposed by him is not a committee amendment, and I am inclined to doubt, and indeed I do seriously doubt, the advisability of adopting it. I want to call the attention of the House to the fact that the committee bill already provides for the employment of circuit judges in district courts. Our bill provides for it in substantially the same manner as a district judge now performs work in the circuit court. During the application of that law, which has been in force since 1869, no difficulty has ever arisen that I have heard of in regard to the elasticity of the system. In section 18 we provide:

Whenever in the judgment of the senior circuit judge of the circuit in which the district lies, or of the circuit justice assigned to such circuit, or of the Chief Justice, the public interest shall require that said judge or Associate Justice or Chief Justice shall designate and appoint any circuit judge of the circuit to hold said district court.

Mr. HUBBARD of West Virginia. Will the gentleman from Pennsylvania permit an inquiry?

Mr. MOON of Pennsylvania. Certainly.

Mr. HUBBARD of West Virginia. Was not the flexibility of which the gentleman speaks due to the fact that the circuit judge formerly need not designate anybody to hold the court in place of some other judge; but the circuit judge, being a judge of the court in which the cases were pending, could go upon the bench without any designation of anyone and hold the court without any appointment from anybody?

Mr. MOON of Pennsylvania. That is undoubtedly true.

Mr. HUBBARD of West Virginia. And does not your bill destroy the possibility of that, and so destroy the flexibility of the system?

Mr. MOON of Pennsylvania. We have provided that whenever the circuit judge is not occupied in the circuit court of appeals he should then sit in the district court.

Mr. HUBBARD of West Virginia. While it was theoretically the work of the circuit judge and might have been done by him, most of the current work of the circuit court was in fact done by the district judge as a judge of the circuit court, but the circuit judge, without a moment's notice, could sit in the circuit court on his own motion, or perhaps at the joint request of counsel of the parties, or of counsel on one side, and proceed with the case without an instant's delay. It seems to me that in the laudable effort of the committee to reach symmetry they have interfered somewhat with the flexibility and convenience of the system which the gentleman has just been complimenting.

Mr. MOON of Pennsylvania. Well, I will say to the gentleman from West Virginia that it is not the purpose of the committee to do this; and the only difference between the gentleman and myself is a question of expediency, because the object sought to be attained by the gentleman from West Virginia is one that must be attained under this new system; otherwise it would not be successful. There is no doubt about that.

Mr. HUBBARD of West Virginia. If the gentleman will allow me, as it is a matter of some importance—and perhaps I need not apologize for trespassing upon the time of the House—as matters have been, the circuit judge, being entitled to sit in every district court within his circuit, in the case of a railroad receivership, or of an application therefor, could take charge practically of the whole case so far as it related to a matter in his circuit. Under this bill as it now stands, without the amendment proposed by the gentleman from New York, you run the risk of the conflict of the views or desires of half a dozen district judges, for this bill commits to the district judge such a case as that. Under the old system the possibility of conflict was avoided, because the circuit judge, entitled to go upon the bench in each district, could take hold of the situation and appoint a receiver in all the districts in his circuit. Without some such amendment as that of the gentleman from New York or this substitute of mine, I think you could not do that under this bill.

Mr. MOON of Pennsylvania. Let me reply to the gentleman, that whole subject has been specifically covered by an amendment; that amendment is 54a, which may not appear in the copy of the bill that the gentleman has. This committee recognized the peculiar legal and judicial situation which the gentleman from West Virginia has pointed out. We knew that the circuit judge, sitting in his district, did accomplish the purpose of appointing a receiver as broad as the circuit. Under the law as it exists now the circuit judge can make a decree territorially no broader than the district within which he then sits.

Mr. HUBBARD of West Virginia. He can sit in every district.

Mr. MOON of Pennsylvania. He does not do that, but what he does do is this: An attorney seeking the appointment of a receiver for a railroad which goes through the entire circuit will get a circuit court judge to sit in a district in that circuit, and if there happens to be five districts in that circuit he will prepare one bill and four ancillary bills, and he will file them in that district all before the circuit court sitting therein at the same time.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the time of the gentleman be extended until he closes; this is too important a matter to be cut off.

Mr. MOON of Pennsylvania. Five minutes will be sufficient.

The SPEAKER pro tempore. The gentleman from New Jersey asks that the time of the gentleman from Pennsylvania be extended five minutes. Is there objection?

There was no objection.

Mr. MOON of Pennsylvania. Now, Mr. Speaker, to resume the explanation, the circuit judge sitting in the district will, in a proper case, enter a decree appointing a receiver, which decree is by law limited to the territory of the district in which he is sitting, and will also at the same time prepare a decree for the other four districts and will telegraph to the circuit court clerk for all those districts in that circuit to enter that decree.

We provide in this bill by an amendment, of which the gentleman from West Virginia is not aware, perhaps, section 54a, which covers that condition of affairs. We have provided that a district judge may, in the first instance, to preserve the status quo, appoint a receiver as broad as the circuit, but we provide that this appointment shall continue only temporarily, and that the circuit judge exercises a supervisory power either to confirm this appointment or to vacate it and make another appointment—in other words, to exercise substantially the same power in that class of cases as he now exercises.

Mr. HUBBARD of West Virginia. There may be done under that amendment, with respect to a certain class of cases, just what my substitute proposes to permit to be done in cases of every class. As the gentleman says, there is retained in the circuit judge by that amendment that amount of original jurisdiction which by the original bill was denied to him, but which I propose to vest in him by the substitute I propose, not merely in the particular case which I used for an illustration, but in every case in which a receivership may be needed in more than one district of a circuit.

Mr. MOON of Pennsylvania. I presume this covers the entire ground of a receivership which is broader than the district in which the district judge sits.

Mr. PARSONS. Will the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. PARSONS. Under section 18, suppose the district judge was not available but a circuit judge was on the spot and some lawyer wanted to get an order, could he get it from the circuit court judge unless there had been prior thereto an order entered in accordance with section 18? Under my amendment a lawyer could go directly to a judge and the judge would have to entertain the matter.

Mr. MOON of Pennsylvania. Yes; I should say they could and I should say, under the ordinary practice now existing, where the district judge discharges the work of the circuit court it is under a continuing order, and in all probability there would exist here a continuing order directed to the circuit court judges in the various circuits of the country.

I think we are all seeking to accomplish the same purpose and looking toward making the system elastic, but this is what I fear, that having put all of the original jurisdiction on the district court and made the district judge responsible for its performance, if we make, by general law, a circuit judge ex officio a constituent element of that court, we impose on the district judge the responsibility for the work and give the circuit judge the power to interfere with his arrangement and permit him to exercise a potential control over these courts in which they do not have any responsibility by law, except when they are specially assigned.

Mr. HUBBARD of West Virginia. Will not the circuit judge have the responsibility if he tries the case?

Mr. MOON of Pennsylvania. Which case?

Mr. HUBBARD of West Virginia. The case the gentleman has in mind when he says that the district judge will be held responsible and yet may be meddled with by the circuit court judge. If the circuit judge tries the case, is not the responsibility on him just as much as if he were a district judge?

Mr. MOON of Pennsylvania. I was not speaking of a particular case which the circuit judge tried; of course, he would be responsible, when he was designated, in accordance with section 18. But I speak about the order of business generally, where the responsibility is on the district judge.

Mr. PARSONS. Under section 18, would it not be possible for a circuit judge, the senior circuit judge, to take an order which would relieve the circuit judges of some motion work, temporary work, so that whenever a lawyer wanted to get an order he would have to find the district judge even if the circuit judge was right there?

Mr. MOON of Pennsylvania. Mr. Speaker, I am afraid I shall have to ask the gentleman to repeat his question, as my attention was engaged in something else for the moment. I beg the gentleman's pardon.

Mr. PARSONS. Mr. Speaker, I asked whether under section 18 the order that could be made might not be an order that would keep the circuit judges out of certain work, such as motion work and chambers work, and then when a lawyer wished to get an order ex parte he could not go to the circuit judge, although he was right there, but would have to wait until the district judge was available.

Mr. MOON of Pennsylvania. Well, section 18 provides that a designation can be easily made and by several persons; first, by the senior circuit judge, then by the circuit court justice, then by the Supreme Court Justice. These judges are all interested in the effective and speedy transaction of the business of the courts in every section of the country, and can make this designation and assignment whenever the exigencies of the case

require it. It seems to me we have the right to assume that these judges will perform their duty and see to it that the dockets in every section of the country are kept up by the utilization of all the judicial force in that circuit.

Mr. PARSONS. It is not simply the question of dockets. It is the question of the other business of the courts also.

Mr. MOON of Pennsylvania. I do not see why their designation to hear motions would not be just as easily effected. In other words, let us take the common practice that has been in operation here now for nearly 50 years——

Mr. HUBBARD of West Virginia. But the trouble is that you are destroying that practice.

Mr. MOON of Pennsylvania. I am talking about the practice that makes the district judge a judge of the circuit court.

Mr. HUBBARD of West Virginia. But you are destroying that now, are you not?

Mr. MOON of Pennsylvania. Yes; because it is no longer necessary to make the district judge a judge of the circuit court, because the district court under this bill has the entire field of the Federal court of original jurisdiction.

Mr. HUBBARD of West Virginia. That is how you are doing away with the convenience that we have at hand.

Mr. MOON of Pennsylvania. I am endeavoring to show the gentleman that when the converse situation existed, when district judges did circuit court work, as they now do, we never have any difficulty in the application of the principles of section 18. I mean to say, that whenever the original work of the circuit court needed to be performed, there was no trouble to get a district judge to do it by a continuing order made by the circuit judge. Neither do I think that there can possibly be any difficulty in getting the work of the district court done by a continuing order of designation of a circuit judge to do it. It seems to me, therefore, that we get into considerable danger. We take away from the district judge all the control of the business of the district courts by making the circuit court judge a district judge, except when a designation is made for that purpose.

Mr. HUBBARD of West Virginia. Will the gentleman permit me to inquire whether under the legislation, as proposed, a circuit judge and a district judge may ever sit together for the hearing or trial of a case?

Mr. MOON of Pennsylvania. Yes; there is no question about that. They may sit together at times in the trial of a case.

[The time of Mr. MOON of Pennsylvania having expired, by unanimous consent, on the request of Mr. PARSONS, it was extended for five minutes.]

Mr. HUBBARD of West Virginia. Under what provision?

Mr. MOON of Pennsylvania. Whenever in the judgment of the senior circuit court judge the public interest shall require the judge to sit there; that is, section 18. We have exactly the same condition existing where a district judge sits in the circuit court of appeals.

Mr. HUBBARD of West Virginia. The section to which the gentleman refers provides for the designation of a circuit judge to hold the district court.

Mr. MOON of Pennsylvania. Yes.

Mr. HUBBARD of West Virginia. May he sit with the district judge?

Mr. MOON of Pennsylvania. I should think so; certainly.

Mr. HUBBARD of West Virginia. Not if he holds the court.

Mr. MOON of Pennsylvania. If the public interest requires that the two judges should sit, unquestionably that designation could be made whenever the public interest shall require it.

Mr. HUBBARD of West Virginia. The section referred to only permits that in case the public interest shall require——

Mr. MOON of Pennsylvania. Yes.

Mr. HUBBARD of West Virginia. Another judge may be designated to hold the court—not that two judges may sit together.

Mr. MOON of Pennsylvania. Oh, I do not think the gentleman would contend that there would be any difficulty about that.

Mr. HUBBARD of West Virginia. There never has been any difficulty about it, because the statute expressly permitted it. There is no longer any such permission under this bill.

Mr. MOON of Pennsylvania. I can not see why, under that clause giving that absolute control to the senior circuit judge, to the circuit justice, and to the Chief Justice to designate a circuit judge to sit in the district court when the public interest requires it, if the public interest requires two men to sit in a case, it does not fully qualify both judges to perform that Federal duty. It is not the custom for two district court judges to sit in a trial of a case; that is, a case of first instance. We are talking about the original work. Now, I repeat that the district court judge is constituted by law, under certain conditions, a member of the circuit court of appeals, but he does not sit in that court except by designation under a rule that is adopted by the circuit judges, and therefore it does seem to me that the provision already existing in this bill makes this system sufficiently elastic, just as elastic as the present system is or has been for the last 50 years. Now, I repeat that that is the only objection I have to this amendment. We really all seek to accomplish just exactly the same object, and it is a question whether we are not doing more harm than good by adopting the proposed amendment.

Mr. MANN. Will the gentleman yield for a question?

Mr. MOON of Pennsylvania. Yes.

Mr. MANN. In the railroad act of last summer we passed a provision in relation to injunctions which provided that application should be made and heard and determined by three judges, of whom at least one should be a Justice of the Supreme Court of the United States or a circuit court judge and the other two may be either circuit or district judges, and so forth. Is there anything in this which would change that provision?

Mr. MOON of Pennsylvania. No; but my recollection is that that related to an injunction to restrain the operation of a State law, and the amendment of the gentleman from Kansas will take all of that——

Mr. MANN. But the amendment of the gentleman from Kansas is not yet law and it is a bare possibility that in the final adjustment that might not go in and this might go in, and that is the reason I asked the question.

Mr. MOON of Pennsylvania. There is no change made in that.

Mr. MANN. Does not this make a change in it itself? That is what I want to know.

Mr. MOON of Pennsylvania. We have provided an amendment, which we shall offer at the proper time, to cover that provision in that bill.

Mr. PARSONS. Will the gentleman yield for another question?

Mr. MOON of Pennsylvania. Yes.

Mr. PARSONS. Is not this the situation: That under section 18 it depends upon the order which is made whether circuit judges are available or not, whereas under my amendment they are available if the lawyer chooses to seek them out? Is not that the difference between the two?

Mr. MOON of Pennsylvania. That is one difference between the two.

Mr. PARSONS. Is not that the difference between the two?

Mr. MOON of Pennsylvania. It is only one of a number of differences between the two. Another is that your amendment would make them constituent members of that court, and the effect might be that while the responsibility rests upon the district judge the circuit judge can take entire charge of the business in the district and thereby interfere materially with the order, arrangement, and dispatch of the business of a court in which the district judge is primarily responsible. It may be that the district court judges of the country may feel their jurisdiction or their dignity had been invaded to some extent.

Mr. HUBBARD of West Virginia. How can that be in the future more than in the past?

Mr. MOON of Pennsylvania. To-day we have to consider the additional jurisdiction imposed by this bill upon the district court. To-day the circuit court's original work is imposed upon the district court and——

Mr. HUBBARD of West Virginia. But each district judge may now exercise——

Mr. MOON of Pennsylvania. Under the act of 1869, and he does not feel the same degree of responsibility and——

Mr. HUBBARD of West Virginia. Does not the committee's provision run the risk of hurting the feelings of the district judge more than does this amendment?

Mr. MOON of Pennsylvania. It may be we are increasing the difficulty, but of course I do not believe that consideration——

Mr. PARSONS. May not that district judge be better pleased with my amendment, which requires the circuit judge to do some of the work which otherwise might all be dumped upon the district judge?

Mr. PARKER. Mr. Speaker, I rise to support the amendment proposed by the gentleman from New York [Mr. PARSONS], although I confess I am somewhat reluctant to begin to speak about so important a matter in a House that is so weary, at the end of a day, and when so few are here.

Mr. MANN. Does the gentleman desire to have a quorum present?

Mr. PARKER. No, sir; I do not desire a quorum. If the matter could go over until next Wednesday, I should prefer it, so far as my speech is concerned. But that is in the hands of the gentleman from Pennsylvania [Mr. MOON].

I desire to support that amendment, because it preserves to the circuit courts of the United States, which are now to be called district courts, the dignity and the elasticity which now belong to them, and which has always belonged to them since the institution of this Government.

At present there are three or four judges in each circuit called circuit judges. They and the Justice of the Supreme Court who is assigned to that circuit—the circuit justice—have power to try cases originally in the circuit court, sitting alone or together. The judge of the district where the case is heard can also sit with them or sit separately.

But on an important case they may, and in a railroad receivership case they must, by law, sit in a court of at least three. All circuit court cases, including all equity suits, and especially cases for an injunction or receiver, and all suits at law of other than certain small limits, are tried in the circuit court. The judges can sit there together. In the great cases under the antitrust law that have just been heard in the Supreme Court of the United States it would have been well that three judges should have sat in the original hearing of the case; that at least three judges should have given dignity and power to the original hearing and decision so as to avoid delay and appeal.

I believe in this amendment also, because it extends that power and practice, so that several judges may sit in the district court itself on the trial of crimes. There was a case lately in which millions of dollars in fines were imposed. It would perhaps have been well, considering the importance of that case, if the circuit court judges of the United States for that whole circuit, with the aid, possibly, of the circuit court justice, should have sat together on that trial and rendered a decision which would have been right in the first place, and which would have been enforced instead of reversed.

The circuit court judges may sit in one court throughout the circuit, and although there are but nine circuits we are now troubled with the fact that those circuits make different decisions and that one circuit court is not bound by decisions of another circuit. But under this bill we will have nine circuit courts, but over 90 separate judges sitting in separate circuit courts, as many as there are districts, in order to try cases. The old system gave to the judges of the upper court the right and the duty to go and bring justice home to the people. The system now proposed, by a bill that was supposed to be merely a revision of existing statutes, takes away from the circuit justice and the circuit judges any such right to sit in the original trial of the cause unless the district court judge is sick. Plaintiffs may choose the district, and choose any district in the United States where he thinks he can find a judge that will feel favorably to his contention about some vast mooted question, and the case will be tried before him alone. The circuit judges can now aid in the disposition of a congestion of cases in any district. They can control and prevent conflicting injunctions and receiverships. All through the circuit, if there be differences of opinion or even of temper between the district court judges, the circuit court judges can take such control by merely sitting in the district. And they are intended to have that control which this bill takes away. Surely it is a mistake to take away the power of the upper courts, of the great courts of these United States, to bring justice home to the people, to take charge of cases as they come before the people, and to see that they shall be tried well in the first instance.

I agree with the gentleman as to abolishing clerks and useless machinery, but I do not believe in creating courts that are simply district courts with two appeals, first to a circuit court of appeals and then to the Supreme Court.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. PARKER. Mr. Speaker, I ask unanimous consent for five minutes more.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PARKER. I desire to make a brief statement as to history. The original Supreme Court was comprised of six judges, and there were three circuits in the 13 States. By the law two Justices of the Supreme Court were ordered to sit with the district judge in each district at least once during the year. This involved a great deal of travel, and it became troublesome. Then it was provided that one justice might sit with the district judge in each district at least once a year in these three circuits. All important business was to be heard in the circuit court. The district court at that time was intended to be in a way an inferior court. It had jurisdiction only of small fines and penalties and of suits involving small amounts of money.

The business of the country was intended to be done, as it had been done in the great courts of England, by the justices of the highest court making their circuits through the realm. We have had to add circuit court judges because the Supreme Court Justices have not had the time to do that work. But the large amount of the great litigation in this country, the equity litigation, the receivership litigation, the great trials at law and in equity are still held or presided over by the circuit judges, and not always by one. They may place as many as they please of the circuit judges of that circuit upon the bench. Gradually the district court judge has been invested with power to sit as a circuit judge in trying circuit court cases, but it was not intended that in giving that power to him we should take away the power of the circuit judges to try cases. It was not intended to divide the original jurisdiction of this country into more than 90 separate districts, so that a single judge only could sit.

It was intended that the circuit courts should be the great courts of the land, and not of a particular district. They are constituted not of one district judge only, but are a court of several judges who sit also on appeals. I pray for a continuance of that system. I favor the amendment, because it preserves the system that we now have, but also because it adds a new element of elasticity, for, by that amendment with my modification, in a case of great moment, the judges of the circuit court, or Justices of the Supreme Court, could sit also in a district court and do the work of that court if it appeared of sufficient importance to them. I believe in that system also because I know it in my own State. We have nine judges in our supreme court in the State of New Jersey. We have county courts, called circuit courts; and courts of quarter sessions, common pleas, oyer and terminer, and probate. The county courts are often held by the county judges only, especially in large counties, but the judges of the supreme court always have the right to sit in any one of these courts, so that it shall be a real court of law to be trusted on an important question.

Within the last five or 10 years, in a criminal case which involved a great deal of public excitement, in my county, the chief justice of the supreme court of the State sitting in circuit in the county called on two of the oldest and best judges of the supreme court to sit with him and to hear the case. It was determined against the clamor of public prejudice and public excitement, but the people recognized that it had been justly decided, because it was the decision of justices of our highest court.

We have that practice now in the United States courts. The higher courts do control; there never has been a time when the courts could not in that way control the original trial of a cause so that it may be a court of justice. I favor this amendment because it preserves that system.

I am not altogether in sympathy with the bill in abolishing the distinction between district courts and circuit courts. We need some courts for small penalties, and for the smaller cases in which it is better to have justice equitably and speedily administered by local judges.

We may have to return to some small court system. We may have to create separate courts for the smaller causes some day; but so long as the great original jurisdiction of the circuit court is exercised in the district between man and man, man and corporation, between the State and the citizen, there must be power without any special order whereby all the circuit judges and the circuit justice of that circuit can go into the district to do justice at once, and in the inception of the cause, and to bring to every man the confidence which comes from the feeling that the case has been rightly tried. I heartily support this amendment as retaining the elasticity of practice and the power of the judges.

[Under leave to extend his remarks, granted January 26, Mr. PARKER submits the following appendix on the history, procedure, and jurisdiction of the United States courts:]

APPENDIX.

THE UNITED STATES COURTS.

ADDRESS OF HON. RICHARD WAYNE PARKER, REPRESENTATIVE IN CONGRESS FROM NEW JERSEY, BEFORE THE NEW JERSEY STATE BAR ASSOCIATION, AT ATLANTIC CITY, N. J., JUNE 18, 1910.

The Federal judicial system is a great subject which has been so exhaustively discussed in its relations to history and the Constitution by the greatest lawyers, historians, and statesmen, that on the few days' notice that I have received for preparation I should not have chosen this topic if an experience of some years on the Committee on the Judiciary did not enable me to say something that I hope may be useful as to the practical working of the courts as organized by statute.

The efficiency of this working will, of course, depend upon three things—first, what the courts have to do, or their jurisdiction; secondly, the way in which they do it—that is to say, their practice and procedure; and thirdly, the machinery which they use for that purpose, including the judges, districts, officers, and the relations of one court to another. The courts will do their work well if they have not too much business, use a proper and convenient practice, and have a sufficient and well organized force, and these three conditions for good are intimately bound up in one another. All three have become of

much more importance with the growth of the Nation, and especially since the Civil War. At the present time the greatness and the variety of the questions which come before the United States courts, the difficulties of framing a practice and procedure which shall secure prompt justice and uniform decisions throughout the many States of this great land, and the number of separate courts, judges, and territorial jurisdictions which must be brought together into one organization, present problems second to none in our constitutional government, and greater perhaps than in any other country in the world.

The business which comes before the United States courts has greatly increased since the Civil War. Our internal-revenue system was then permanently established. The collection of internal revenue by the United States had been several times before tried and abandoned, and now furnishes a large part of the necessary income of our Government. Statutes imposing taxes on tobacco, cigars, and liquors, with penalties for the violation of an infinite number of regulations, make necessary a multitude of criminal prosecutions, which can only be tried before the court itself at the sittings of the district court, because, as it will be noticed hereafter, the United States have no courts for the trial of small causes in each county and for the collection of small penalties, such as prevailed at common law and have been retained in our State jurisprudence, and thus a large part of the business of the district court, both in revenue and in other matters, consists in the trial of indictments for purely statutory offenses. With the growth in the post-office service there has been a like increase in prosecutions under the post-office laws. Our population since 1800 has not increased twenty-fold, while the business of the post office has increased nearly a thousandfold. The whole national-bank system also came in with the Civil War, and that law must be administered by the courts. These courts must interpret and enforce our new legislation as to customs, forests, mines, improvements of rivers and harbors, and irrigation. They must determine the rights arising in and as to our outlying territory. A still larger jurisdiction has lately come to them from the expansion of interstate commerce revenue and postal legislation, in which the judicial control of the United States has been made to cover oleomargarine, pure food, the carriage of liquor, lotteries, fraudulent or indecent use of the mails, combinations in restraint of trade or transportation, and the regulation of such transportation, including telegraphs and telephones. Such regulation covers the manner in which the commerce shall be performed, the instruments that shall be used therein, the liability of employers engaged in such interstate commerce, the routes or connections that may or must be established, the rates that may or may not be charged, and their reasonableness or uniformity; and it is now proposed that the United States may and should assume a jurisdiction over corporations engaged in interstate commerce, authorize their organization and control their issues of bonds and stock, even in the case of State corporations. It will be for the Federal courts to determine and finally adjudge how far the United States has constitutional power over these and many other subjects, and how any such power is to be construed and applied.

Chancellor Magie said to me one day that the legislative crime of the century was the multiplication of crimes. The criminal code of statutory crimes which accompanies this tremendous growth of new legislation has thrown upon the courts a docket of criminal cases that seems to know no end. Their work has been increased by a long list of bankruptcy cases, under a law which has extended that system so as to include not merely merchants but the humblest person who owes more than he can pay. The naturalization of aliens has been lately thrown upon the United States courts, as well as the administration of the affairs of insolvent corporations in bankruptcy. Patent litigation has increased in importance, complication, amount, and especially in the difficulty of decision. New branches of equity jurisdiction have been imposed on the laboring judges by the interstate-commerce, anti-trust, and Elkins acts, involving in such cases volumes of evidence as to rates, values, and the details of transportation. The work is also augmented in proportion as the United States court is preferred to that of the State. The man or corporation who is mining or manufacturing or even owning land in another State appeals to the United States court for protection against the local prejudice which may prevail in that State and tries to obtain a hearing before a judge who does not have to look forward to a popular election. The decision of Chief Justice Taney that the organization of a corporation outside of a State gave it the privileges of a nonresident has thus brought into the United States court cases as to the title and management of land, as well as those involving contracts to labor, and accidents, which ought to be purely local. If the business which comes to United States courts is to increase during the next century in the same proportion that it has since the Civil War, it would almost be necessary to put a United States court in each county to dispose of the work.

The fault lies largely with the States. Mr. ROOT has rightly said that the tendency to centralization would be largely checked if the States would make and enforce proper laws. Nonresidents would not so often seek the United States courts if unflinching justice was always to be obtained elsewhere. United States pure-food laws would not be popular if State inspection laws enforced honest goods and true weights. If the courts of all the States and the juries of the country could be relied upon not to oppress the nonresident or to confiscate his property, Congress would probably have little hesitation in providing that all business done within a State should be subject to the rule of local State courts.

We ought to diminish the multitude of prosecutions which take up the time of the district court. We might well substitute small penalties for trial by indictment, but this substitution would not relieve the court unless local tribunals for the trial of small causes be established. It was the sense of the framers of the Constitution that statutory penalties might be recovered by an action of debt in the local State courts, and this was provided in several cases by statute (especially U. S. Stat., 2 Mar., 1815, c. 100), just as it was also provided that arrests could be made by a State criminal officer and the defendant held for trial before the United States court. Unfortunately, though such arrest is held constitutional as a mere incident of justice, the trial of a penal action before a State tribunal is held unconstitutional. (United States *v.* Lathrop, 17 Johns., 98 et seq.; 1 Kent Com., 402 to 404, states the law fully.) It is quite possible that the administration of small bankruptcies could well be intrusted to the local insolvency courts, subject to removal in proper cases. Congress has power to establish a uniform system of bankruptcy and prescribe rules for naturalization, and just as State courts formerly administered naturalization they perhaps could likewise administer a system of bankruptcy which should prescribe what shall constitute an act of bankruptcy and how the bankrupt's property shall be distributed. The need of a general bankruptcy law does not arise so much from faulty State administration of insolvencies, but from the inequality with which the property is distributed under various State statutes. It may well be claimed that local small-cause courts should also be established, together with a system of small penalties, which would relieve the higher courts from the tremendous quantity of criminal business under which they now groan.

The United States courts now have to deal principally with the unbending words of statutes. The far-sighted Representative from this district, Mr. GARDNER, has introduced a bill that in matters of interstate commerce the common law as modified by United States statutes is hereby enacted. I think his desire is to enlarge the statute law of common carriers, restraint of trade, and combination and conspiracy by the same elasticity, universality, and reasonableness that belong to the common law. Whether this can be done is doubtful, but it is certainly to be regretted that the common law is not the law of the United States and that United States courts are confined to the technical construction of written law. This adds much to their labor.

There may be a reflux of the tide of centralization. The employee may prefer to take the certainty of a State statute fixing employers' liability under the contract of employment rather than to risk the uncertainty of a United States jurisdiction which only extends over that employment when directly connected with interstate commerce. It will be a great relief, both to the State and United States courts, if State law could establish a proper and careful system of workmen's compensation in case of accidents, limited, possibly, according to the number of employees or the danger of the trades, and so adjusted that the damage caused by the accident shall be shared by both parties, according to fixed rules and without litigation. State remedies against all unfair competition may be preferred to a United States remedy, which can only affect interstate competition. The rule of a commission over transportation may become as unpopular as it is now popular, just as the alien and sedition law was strongly demanded when it was passed, but ruined the party that passed it. Experience is the only teacher of whom everyone must learn, and if the multitude of suits thrown upon the United States courts shall finally swamp those courts there may come a revulsion of public sentiment which will restore State matters to the local courts.

The practice and procedure of the United States tribunals, at least, has had much to do in enabling them in suits at law to cope with the tremendous burden which has been thrown upon them. The judge has not been deprived of his power to control trials. The act of 1872 wisely adopted the practice, pleadings, and forms and modes of proceeding employed in the State courts, but Congress has not adopted, and probably could not adopt, any State statutes or practices which would infringe upon the judicial power of the judge. Under the Constitution, Article III, section 2, the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, etc.

The judge of a Federal court, like a judge in New Jersey, is still a constituent part of a jury trial at common law. Mr. Justice Brown, in a paper read before the American Bar Association in August, 1889, on judicial independence, says that "as he (the judge) is an indispensable and constituent factor in that proceeding known to the law as trial by jury, it is difficult to see why he is not as much entitled to protection against legislative interference in the discharge of his common-law duties as is the jury in the exercise of its proper functions."

He continues:

"'Trial by jury,' says Mr. Justice Gray, 'in the courts of the United States is a trial presided over by a judge, with authority not only to rule upon objections to evidence and to instruct the jury upon the law, but also, when in his judgment the due administration of justice requires it, to aid the jury by explaining and commenting upon, and even giving them his opinion upon, questions of fact, provided only he submits those questions to their determination.'"

Judge Brown notes that judges in various State courts are subject to acts or statutes prohibiting them from charging or commenting upon matters of fact, requiring all charges to be in writing, requiring that the judge give such instructions, and such only, as have been submitted to him by counsel, either with or without modification, and requiring the court, at the request of counsel, to submit special questions to the jury, to be answered in addition to their general verdict. These statutes are not applicable to the Federal courts. The Supreme Court has repeatedly declared that when the United States adopted the practice, pleading, and forms and modes of proceeding employed in the State courts they did not in any way affect the personal administration by the judge of his duties while sitting upon the bench, and in one case Mr. Justice Swayne says that the statute was not intended to fetter the judge in the discharge of his personal duties or trench upon the common-law powers with which in that respect he is clothed. "Whether Congress could do the latter was left open to doubt, and it was not then, and it is not now, necessary to decide that question." Mr. Justice Brown comments upon the injury done to the practice of the law by these State statutes. His address is contained in the proceedings of the American Bar Association for 1889.

Trials at law in the United States courts, and especially trials by jury, are still controlled by the judges according to the rules of the common law. Juries are well selected, decisions are prompt, and the administration of justice furnishes a model to the courts of every State. Mr. Taft, while Secretary of War, made some far-reaching criticisms upon the administration of criminal law, especially in some States. (Yale Law Journal, Nov., 1905, p. 1.) He comments (p. 12) upon the necessity that the judge control the method by which counsel try the case, restraining them to the points at issue, preventing them from diverting the minds of the jury to inconsequential and irrelevant circumstances and considerations, and aiding the jury by advising them how to consider the evidence and even by expressing an opinion on the evidence, leaving, however, to the jury the ultimate decision. Mr. Taft shows how State legislatures have exalted the power of the jury and diminished the power of the court in the tribunal made up of both, for the hearing of criminal cases, making it an error of law for the court to express his opinion upon the facts, and restricting the court to a written charge, so that "the verdict becomes rather the vote of a town meeting than the sharp, clear, decision of the tribunal of justice," while counsel creates by dramatic art and by harping on the importance of unimportant details a false atmosphere in the court room. He notes, also, our method of choosing jurors, the great number of challenges formerly allowed in his own State, by which the best men were struck off the jury, and he urges that "if men who commit crime were promptly arrested and convicted there would be no mob for the purpose of lynching. * * * It is the delays of justice that lead to its organization." It is because of the high character of the practice and procedure in the trial of cases at law that in certain States suits are so often brought in or removed to the United States court, where a judge, learned in the law, will control the trial and aid a competent jury in doing justice.

The practice in equity of the United States courts can not be so highly commended. Equity is based upon discretion. It is the essence of equity that there shall be but one chancellor, and that he shall control all the vice chancellors and judicial officers of his court, because equity "varies with the length of the chancellor's foot." One man's discretion is not another's. It has become inconvenient, even in customs cases and at law, that different circuits should make different decisions as to the meaning of a revenue statute, and we have properly established a Court of Customs Appeals by the Payne tariff law. It became unbearable in equity suits as to interstate commerce, based upon the antitrust act, the railroad regulation act, and the Elkins Act, that selection could be made as between all the judges in every district situated upon the railroad systems of the United States, so as to find one who was most favorable to using the injunction power, and we are therefore passing an act establishing a single Commerce Court, with exclusive jurisdiction over such suits, and in which four of the five judges shall always sit. It has become unbearable, also, to the patent lawyers of the country, at least to those who wish justice, that the same patent should be differently construed in different circuits, and that the owner of the patent can go from one end of the country to the other to find a weak defendant and a complacent judge who is known to have a constitutional enthusiasm for the poor inventor. It may be a dangerous business to establish special courts for special subjects but this question will more properly come before us when I reach the question of the judicial machinery of the United States courts. Returning to equity practice, we have greatly mitigated some parts of the ancient rules. It was a hardship amounting to tyranny that until about 10 years ago there was no appeal from an interlocutory order, whether for an injunction or a receiver, and that any judge's order, however rash, should remain without redress until the final hearing. By the act of June 6, 1900, all such orders are now appealable by either party with preference in hearing. The judges are, perhaps, more careful since that statute as to the form of their injunction and the case on which it should be granted. Relief is felt in every branch of the law, and especially in patent cases and labor disputes.

But perhaps the most unjust and inequitable form of equity practice in United States courts is in the taking of evidence. The old English chancery deposition, taken before an officer who had no power to rule upon evidence, was felt to be unjust and antiquated even in the first judiciary act of 1789, when it was enacted (1st Cong., 1st sess., chap. 20, sec. 30) that "the mode of proof by oral testimony and examination of witnesses in open court shall be the same in all the courts of the United States, as well in the trial of cases in equity and of admiralty and maritime jurisdiction, as of actions at common law," excepting only depositions taken de bene esse. It was, however, found impossible as business grew for the judges themselves to take all the evidence in an equity case, and in 1802 (7th Cong., 1st sess., chap. 31, sec. 25), it was enacted that in all suits in equity it shall be in the discretion of the court, upon the request of either party, to order the testimony of the witnesses therein to be taken by deposition, which depositions shall be taken in conformity to the regulations prescribed by law for the courts of the highest original jurisdiction in equity in cases of a similar nature in that State in which the court of the United States may be holden, with a proviso excepting such States as do not take testimony in equity by deposition.

The rules of the Supreme Court in equity were adopted under a statute allowing such rules to prescribe the practice, and these rules have continued this antiquated system of taking testimony before an examiner, who has no power to rule upon the evidence. Under this practice volume after volume of immaterial testimony is taken in patent causes, where experts employed at the expense of the poor litigant are cross-examined by the month by his richer opponent; or in trust cases, wherein the 20 or 30 volumes of the Standard Oil or the Tobacco Trust cases can hardly be read or referred to. The court must wander through this maze of uninstructive material in order to make up an opinion, which is often delayed so many years as to exhaust the life of the patent or otherwise leave the successful party without a real remedy. Justice delayed is justice denied. We have met the difficulty in our own State by recognizing the power of the court of equity to refer a case to a master, to hear the same and advise the chancellor what order or decree should be made therein. This reference to an advisory master was the old practice in our State whenever the chancellor was personally interested, and we have now recognized that power as generally necessary because of the growth of the business of the court, and have by statute authorized the appointment and pay of vice chancellors, who shall hear the case consecutively and orally, with a stenographer, and as if on trial by jury, and who shall advise the chancellor what order or decree shall be made. (See Gregory *v.* Gregory, 1 Robbins, p. 10.) The decree is the decree of the court, and not of the vice chancellor, though it will not be reviewed except as mentioned in the case cited, and in Sea Stream *v.* Exhibition Co. (59 Atl. Rep., p. 914), where the chancellor has added the case of the trial of indirect contempts, in which there is no appeal and a review is therefore allowed.

Reform in the United States practice by allowing such reference is urgently required, whether that reform be made by a new rule of the United States courts or by statute. Such a reference would often eagerly be sought by both parties, but whether that be so or not, such a provision is absolutely necessary to try cases and shorten trials. In other respects the practice in the United States courts has been much aided by statutes. Equity appeals under the antitrust or interstate commerce acts may be speeded. Writs of error may be taken by the United States from decision on matters of law, as in the quashing of an indictment where the defendant has not been put in jeopardy by a trial. Numerous further amendments are proposed by the American Bar Association. One provides that writs of error shall only be allowed where the error is certified to affect the substantial rights of the parties. A second is that a case may be certified and final judgment had thereon on appeal. This is probably so at common law. But, in this instance, as in the matter of taking testimony in equity, the common law and equity powers of the courts have been largely forgotten in the education of lawyers and judges in States where statutes have taken the place of the common law. We have lately passed through the House a bill shortening the time for pleading on the removal of causes, so that such removal shall not be made a means of delay. Congress and the bar are anxious, and they should be, that the practice and procedure of the United States courts shall be so amended that the courts may be able to deal promptly and efficiently with the business that comes before them.

In the matter of the efficiency of the courts, however, the most important and the most difficult condition in so broad and diversified a land as ours lies in the constitution of the courts themselves, the number of judges, the allotment of those judges, the assignment of appellate and original jurisdiction, and the territorial division of that jurisdiction, or, in other words, the machinery by which justice is to be done.

In considering this important subject we have to notice the growth of these courts. The great act of September 24, 1789, establishing the judicial system of the United States, provided a Supreme Court consisting of a Chief Justice and five Associate Justices, any four of whom should be a quorum, and divided the then 12 States which had assented to the Constitution into 13 districts, giving a separate district to Maine, then a part of Massachusetts. The Chief Justice was to receive $4,000 and the Associate Justices $3,500, and each of the district court judges from $800 to $1,800. Three circuits were provided (sec. 4), the eastern, including New Hampshire, Massachusetts, Connecticut, and New York; the middle circuit, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia; and the southern circuit, South Carolina and Georgia; and two circuit courts were to be held annually in each district. The circuit court was to consist of any two judges of the Supreme Court and the district judge, any two of whom were a quorum, and with a proviso that no district judge should vote on appeal or error from his own decision. The district court (sec. 9) only had criminal jurisdiction "where no other punishment than whipping, not exceeding 30 stripes, a fine not exceeding $100, or a term of imprisonment not exceeding six months is to be inflicted," besides all admiralty and maritime cases, seizures, and suits for penalties and forfeitures, suits by aliens for tort in violation of the law of nations or of treaty, and also concurrent jurisdiction with the circuit court of all suits at common law by the United States up to $100, with exclusive jurisdiction of suits against consuls and vice consuls. The circuit court (sec. 11) had concurrent jurisdiction with the State courts, of common law and equity suits involving over $500 where the United States was plaintiff, or an alien a party, or the suit was between citizens of different States; and it also had exclusive criminal jurisdiction of the higher crimes. Provision was made for the removal of causes from State courts by defendants who are citizens of another State, etc., much as to-day. The Supreme Court (sec. 13) had exclusive jurisdiction, as provided by the Constitution, of suits where a State was a party, or against ambassadors and their official families, with appellate jurisdiction from the circuit courts and courts of the several States. An appeal from the district court to the circuit court lay in admiralty cases (sec. 21) involving over $300, and (sec. 22) in civil actions involving over $50. A writ of error lay to the Supreme Court in matters involving over $2,000. By section 25, State decisions of the highest court against the validity of the United States treaties or statutes, or in favor of the validity of a State statute, which is questioned as being repugnant to the United States Constitution, may be reviewed on writ of error to the Supreme Court. By section 29 trials of cases punishable with death shall be in the county where the offense was committed; or, where that can not be done without great inconvenience, by jurors summoned from that county. And by section 33 criminals may be arrested by any justice of the peace or other magistrate of any of the United States where he may be found, agreeably to the usual mode of process against offenders in that State.

It is noticeable that this statute practically established circuit courts, which were also courts of appeal, including in each case two judges of the Supreme Court, and that the Supreme Court was thus to hear cases in divisions for the purposes of such appeals. This system had its advantages in that these circuit courts of appeals were composed of judges who were continually in conference with each other and who brought the best law home to the people. The district court was practically for the trial of small causes only, although the district court judge sat with the justices or justice of the Supreme Court in the circuit court. A court of at least two judges, including at least one justice of the Supreme Court, thus sat in every important case at common law or in equity, and this provision guarded all important civil and criminal trials, although, agreeably to the English practice, no writ of error could be taken in any criminal case. The disadvantages of this system lay in the excessive travel imposed upon the justices of the Supreme Court, and the difficulty of always obtaining two Supreme Court Justices to hear appeals from the district court.

On February 13, 1801, near the end of the presidential term of John Adams, an act was passed (6th Cong., 2d sess., chap. 4) for the more convenient organization of the courts of the United States. It provided (sec. 3) that after the next vacancy in the Supreme Court it shall consist of five justices only. Rhode Island, eastern and western Tennessee, Kentucky, and Ohio were added as districts, and the 17 districts were divided into six circuits. By section 7 three circuit judges were to be appointed for each circuit, with two sessions annually in each district and special sessions in their discretion.

The circuit court in the sixth circuit was to be held by one circuit judge with the judges of the district courts of Kentucky and Tennessee, whose places upon any vacancy should be supplied by the appointment of circuit judges. By section 9 a circuit judge might adjourn the session for any district if it shall be dangerous to hold that session. These circuit courts (sec. 11) were to have cognizance of all crimes and offenses in cases at common law or in equity arising under the Constitution or laws of the United States or treaties, or where the United States was plaintiff; of all seizures and penalties, and of all actions cognizable by the United States judges where the matter shall amount to $400; and also (sec. 12) under the bankrupt law and of cases removed from State courts (sec. 13) to the circuit court. One judge (sec. 15) might adjourn from day to day, impanel and charge the grand jury, order processes, receive indictments, etc, but the court should adjourn after five days if no other judge appeared. A single judge might grant injunctions and ne exeat in the same manner as a Supreme Court justice or (sec. 25) might take the place of the district judge if he be unable to perform his duties. Appeals from the district court and from the circuit court were much as before. It will be seen that by this act circuit courts are described as being very much like the present circuit court of appeals, but with original jurisdiction.

The act was passed in times of great excitement, just before the administration of Thomas Jefferson, who would not recognize the so-called midnight appointments of the circuit judges. A repealer of this act was immediately introduced, which finally passed March 8, 1802. (Stats., vol. 2, p. 132.) This legislation put the judges out of office, and its constitutionality was doubted. The debate on this act and on a preliminary resolution, introduced January 6, 1802, by Senator Breckenridge, that the act should be repealed, was opened by Senator Breckenridge. I have a copy of the whole debate in Congress, published in Albany in 1802. Senator Breckenridge argued that the number of suits had decreased, showing 1,274 commenced in 1799 and only 687 in 1800; that the time would never arrive when America will stand in need of 38 Federal judges and expend in judicial regulation annually the sum of $137,200; and that in England there were only 12 judges in three principal courts, trying all common law suits of 40 shillings and upward. He argued that when the judicial power was vested

in one Supreme Court and such inferior courts as Congress may from time to time ordain and establish, the word "may" implied the power to abolish; that the judge could hold his office only while the office remained and that otherwise complete sinecure offices will be created and hosts of constitutional pensioners settled upon us. Senator Jonathan Mason, of Massachusetts, recollected the great grievance in the Declaration of Independence that the Crown had the appointment of judges dependent on its will and favor, and insisted that, as under the Constitution the judges hold their offices during good behavior, Congress could not remove the office. He thought that the new system should be tried, that suits were sure to increase with our commerce, wealth, and numbers, and that we had better pay $40,000 more for a system that is too broad than to have one that is too narrow. Senator Morris, of New York, was of the opinion that there must be enough judges to bring justice to the people, that for six judges of the Supreme Court to ride the circuit of America twice a year and sit twice a year at the seat of Government the President "in selecting a corps for the bench must seek less the learning of a judge than the agility of a postboy," and that the constitutional check of an unremovable judiciary was of the first necessity to prevent an innovation of the Constitution by unconstitutional laws and to prevent any faction from intimidating or annihilating the tribunals themselves. He deemed it "pleasant" that you shall not take the man from the office, but might take the office from him; shall not drown him, but sink his boat under him; shall not put him to death, but may take his life; and he protested that by this act the sublime spectacle of a great State bowing before a tribunal of justice is removed. Senator Jackson, of Georgia, was more afraid of an army of judges under patronage of the President than of an army of soldiers. "Have we not heard judges crying out through the land 'sedition,' and asking those whose duties it was to inquire, 'Is there not sedition here?'" True, the sedition law had expired, but hereafter, if it should exist, your judges, under the cry of sedition and political heresy, may place half your citizens in irons. Senator Tracy, of Connecticut, attended, though very ill. He said the old courts had failed if one judge was unable to attend; appeals were not heard, and that the judges were the only check if the President or the States exceeded their powers. Senator Mason, of Virginia, protested that the Supreme Court salaries had been thought high, and in some parts of the Union they were thought enormous; that we were relieving them from duty and retaining for eight or 10 cases a year in the Supreme Court six judges.

Senator Stone, of North Carolina, added that there was danger in converting the office of judge into a hospital of incurables, which could be increased to any number; * * * a band of drones. Senator Morris again urged that the people intended to establish justice; that he loved the Constitution; that courts protected the most insignificant from an unconstitutional law or military oppression. He suggested that the mint cost $35,754.44 and had only coined between ten and eleven thousand dollars of copper, while objection was made to $40,000 more to the courts. Senator Baldwin, of Georgia, believed that delegated power always increased. He found an objection that while under the old system the same judges held the Supreme Court and a court in each of the States, except the new States, the courts in the several States are now to be held by different judges, which destroys the possibility of uniformity; he thought that State business ought to be kept in the State courts; that the general-welfare clause was not a distinct grant of power, but a limitation of the power granted to lay and collect taxes, etc. Senator Hillhouse, of Connecticut, stated that this was clearly a removal of the judges. Senator White, of Delaware, claimed that the new plan would allow justice to be done. Senator Chipman, of Vermont, considered that the number of terms of the Supreme Court and district courts and the immense distance to be traveled had been unreasonably great, and that from the labors and fatigue of riding the circuit there could not be allowed time sufficient for those studies and for that calm and deliberate attention which is so necessary to a proper discharge of the duties of judge. Senator Wells noticed that each judge held 12 courts a year, and that the decrease in cases was not real, but resulted from counting hundreds of the Miller suits on patents for ginning cotton in the older docket.

These brief citations from the beginning of the great debate show the tremendous interest which existed and the perils through which our courts have passed. The repealer passed the Senate by 16 to 15, or only 1 majority. It passed the Jeffersonian House by 60 to 34, with 8 Members absent. It was followed by an act, of April 29, 1802, establishing six circuits, each to be held by one Supreme Court justice and the district judge, with a provision for cases to be certified to the Supreme Court by certificate of division on a point of law.

The growth of the country gradually created many changes. The Revised Statutes of 1875, page 89, recognize 20 States as constituting one district each, and the rest as divided into 37 districts, making 57 in all. There were a few less district judges. The district courts had now obtained jurisdiction over all crimes, suits for penalties, common-law suits brought by the United States or its officers, equity suits for foreclosure of revenue liens on lands, admiralty cases, confiscations, suits for drawbacks or under the civil-rights laws, quo warrantos under the fourteenth amendment, suits by or against national banks, by aliens for torts, suits against consuls or vice consuls, and all bankruptcies. The Supreme Court Justices still sat at the circuit once a year, but in 1869 a circuit judge with a salary of $6,000 a year had been provided for each circuit, and the circuit courts were held under that act by the circuit justice or the district judge sitting alone, or by any two of the judges sitting together. Besides this civil jurisdiction the circuit court had concurrent jurisdiction with the district court of crimes and offenses. The old provisions for appeals from the district court still remained. The Supreme Court had been enlarged to a Chief Justice and eight Associate Justices by the act of 1837. It had been previously increased from six to seven. Under the same act of 1869 the Chief Justice received $10,500 and the Associate Justices received $10,000 a year each, and the court held one term, beginning on the second Monday in October, hearing appeals and writs of error from any circuit court, without regard to the sum in dispute in patent and revenue cases, and in other cases involving $2,000. Our courts had already expanded so as to create great confusion. Over 50 district judges could sit either as a circuit or district court in each district, trying cases of the utmost magnitude. The appeal from this district judge went direct to the Supreme Court of the United States. The circuit judge in some circuits sat in the more important cases, but the attendance of the Supreme Court Justice, as still required by statute, once a year for the trial of cases had become practically disregarded. The Supreme Court docket was in arrears and constantly growing, so that it took several years to obtain a trial of a writ of error or a hearing upon appeal.

The real modern problem as to delays in the Federal courts came to an issue in the year 1882. It was then carefully discussed and majority and minority reports filed in the American Bar Association. The majority report was signed by John W. Stevenson, Charles S. Bradley, Rufus King, Alexander R. Lawton, and Henry Hitchcock, and the minority report by Edward J. Phelps, Cortlandt Parker, William M. Evarts, and Richard T. Merrick. Both reports recognized the necessity of legislation for improvement in the organization of the judicial system. They recited that for 20 years after 1790 the average number of cases pending annually in the Supreme Court was less than 100; that after 1843 it was over 150; that from 1862 to 1882 it had increased from less than 350 to nearly 1,200, and though the number annually disposed of had increased from less than 150 to nearly 360 the court could not keep up with the arrears; that the last completed term had opened with 1,202 cases, of which 365 were disposed of during the year, leaving 837 untouched; that hearing was usually delayed three years, and that such delays afforded a premium for vexatious appeals. The report notes that Magna Charta pledged that justice should neither be sold nor denied nor delayed. It was admitted that the circuit courts needed more judges. Two general plans were proposed. The first provided that the Supreme Court should be divided into three divisions of three judges each, assigning as nearly as possible all equity cases to one division, all common-law cases to another, and all admiralty, revenue, and United States cases to the third, while the whole court in general session should hear constitutional questions and cases in error from the State supreme court. The other plan proposed what has since been established, an intermediate court of appeals in each circuit, whose judgment should be final in all cases involving less than $10,000, excepting those reserved for the Supreme Court because of the nature or importance of the questions involved. This plan included an increase in the circuit judges and put a higher money limit on appeals to the Supreme Court. The majority of the committee doubted whether a Supreme Court could properly be divided; they thought that any such division would impair the dignity of the court itself, and made little of the objection that there would be conflicting decisions in the various circuit appellate courts. The minority report, signed by the four lawyers above named, objected to abridging the jurisdiction of the Federal courts; suggested that the Supreme Court now have a quorum of six; that a small number of judges sitting together was the only way of obtaining the opinion of the whole court; that a hearing before the full court of nine had introduced the practice of delegating cases to a few judges or even one judge for examination, and they advocated the plan that the Supreme Court should be divided into two or more sections for the hearing of all cases except those that should properly be heard before the whole court, the division not to be made by permanent assignment, but as the court might from time to time find expedient, while constitutional questions were to be heard before the whole court, as well as such cases as any division ordered to be reargued. They proposed also that cases decided by a division should be reported to the whole court before decision was announced, so that the judgment should be the judgment of the whole, and thought that this would double or treble the working ability of the court. They insisted that there was no constitutional objection, and called attention to the decision of the court of errors in New Jersey (4 Zabriskie, 138), where the Constitution had created one Supreme Court and the legislature was held rightly to have divided the court for the dispatch of business.

The minority views objected to any intermediate court of appeals and a monetary limitation of $10,000. They said that the Supreme Court was never intended for the rich alone, but belongs to the people, although some pecuniary limit must be fixed to save it from being harassed with small controversies, and to exclude from it causes not large enough to pay the expenses of going there. They protested against this court being closed to ordinary cases and devoted by a high money limit principally to the service of the wealthy and the powerful, and they suggested the grave danger that it might gradually become the object of public jealousy and aversion. They feared the danger that separate circuit courts of appeal might give varying decisions, emitting a series of reports with no central court of appeal to regulate their conclusions and objected that this plan would not preserve the one Supreme Court, but establish for all practical purposes nine Supreme Courts, and as many more as there might be additional circuits. They thought that this made division of the Union; that more circuits would certainly become necessary, and that 12 judges in the Supreme Court would not be too many, there being the same number in the three courts of England, while subordinate appeals from the district court to the circuit court might well be revived.

The debate in the bar association is most interesting, the leaders being Henry Hitchcock and Edward J. Phelps. The latter insisted that better decisions would come from divisions of the Supreme Court because containing Supreme Court judges; that the circuit judges would have to be increased; that variety of law was to be anticipated from separate courts of appeal from Maine to California, in debtor States and creditor States, in hard-money States and in greenback States, in Northern States and in Southern States, in Eastern and Western, oppressed and controlled everywhere by interests so diverse, by traditions so different, by political sentiment so hostile, by local institutions so multiform, by corporate interests so powerful. He held that the law of the land is a reflex of the spirit of the land, and asked, "Can we reasonably hope from such tribunals a homogeneous system of law and uniform and harmonious course of decision, or is it likely to be a system of law under which a man who has a case in one circuit shall recover while his neighbor across the line with the same case in the other circuit shall fail, in which the Federal law shall be one thing here and another thing there?" He urged that in conclusions reached by branches of the Supreme Court there would be no possibility of conflict, the branches sitting at the same place and time in daily intercourse and consultations, and that a large money limit would close the doors of the court to the mass of the people and make it a rich man's court, to sink in the estimation of the people, and become an object of jealousy and distrust. Mr. Evarts felt that Supreme Court should by administrative arrangement be able to dispose of its cases and supported the same side.

The meeting was small and the majority report was adopted by a vote of 39 to 27. The matter was somewhat debated in the following year, but the system of intermediate appellate courts recommended by the majority has been adopted. It has relieved the docket of the Supreme Court to a very large extent. No ordinary cases are now taken to that court except when there are conflicting decisions on points of law in the circuit courts of appeals. But the results of that system of a separate court of appeals in each circuit have not been altogether encouraging. Patent lawyers have urged in successive Congresses that on the facts a patent is sustained in one circuit and not in another;

that the decision being upon questions of fact can not be taken to the one Supreme Court; and that the use of the patent being allowed in one part of the country and not in another the whole benefit of the patent in cases of manufactured articles is lost throughout the United States. It has been proposed by them to establish a single patent court of appeals. At the same time the eminent counsel who propose this court object strenuously to any permanent separate court appointed for life and ask that it shall be composed of judges detailed from the circuit or district courts who have been used to trying cases between man and man, so that it shall be a court of real lawyers and judges and not of patent experts. (See statement Mr. Frederick P. Fish, Jan. 5, 1907, p. 28, before the House Committee on the Judiciary.) On the other hand, there is a well-founded jealousy of creating any special separate court for special appeals. True, the confusion, difficulty, and delay in the construction of the revenue and customs laws has led to the institution of a court of customs to determine all questions arising in the tariff. The separation of such a revenue court from others is in accordance with the practice of most nations, and exampled by the English court of exchequer. Revenue questions are purely technical and always between the Government and the citizen, and may well be determined by a special court, as certainty in such matters is always preferable to uncertainty and delay. Suits in equity under the interstate-commerce and antitrust laws have become of such paramount and, one might say, paralyzing importance to the business of the country that we are now being driven to the institution of a commerce court, where any disputes as to transportation and rates may be settled with promptness and uniformity. The business of the country could not abide the uncertainty and delay which resulted in these matters from varying decisions and constant appeals in 85 circuit courts and nine circuit courts of appeal.

Enough has been said to show that improvement is still possible in the constitution of our judicial system. It needs facilities which are present in almost every well-organized State. We must return to some plan giving courts for the trial of small causes like the old district courts, where the smaller penalties, civil and criminal, may be promptly and economically enforced.

As to larger cases, I think almost every lawyer believes that the best judges, who sit in the higher courts, should likewise try cases below, and that the judges of the circuit courts should do more work in the original trial of cases. They are all overworked now. They can be relieved in some degree by remitting to the State courts cases that should properly be tried there. They can be relieved still more if their work as chancellors and judges in equity can be delegated to advisory masters or vice chancellors, or even if the evidence can be taken by such masters, with power to rule out what is not evidence and prevent the creation of so-called records, which are an abuse of judicial procedure. It is perhaps essential also that we should reverse the policy which has divided the States into innumerable districts and divisions. In larger districts a corps of judges can distribute and do the work, whereas an aged or invalid judge now leaves the work in his district in arrear. As to appeals, it is essential that they shall be promptly decided and that the decisions shall be uniform. We recognize the objection to creating separate courts for separate branches of the law, but there may be less objection to merging all the circuit courts of appeal in one court and assigning from time to time different judges to different sections or to different branches of the law, much as is done in the high court in England.

There are disadvantages, and very grave disadvantages, in any intermediate court of appeal. One well considered appeal is far better than two. We might, perhaps, also safely follow the English example of creating a large supreme court sitting in divisions for different classes of appeals and attending in that way to the appellate business of the whole country. There is always something practical about any English system, though this plan has never been tried in so large a country as we have here. We found it practical in the first judiciary act, when we sent our six judges by twos into the various circuits to try cases and hear small appeals in the first instance, while they heard appeals from the whole country in banc at the seat of government. The successive grades of district courts, circuit courts, circuit courts of appeal and Supreme Court have not brought us the same simplicity of practice, nor have they carried to the people the original trial of the case by the best judge that is to be found in the land, a peculiarity which is the glory of the English system as distinguished from the succession and graduations of courts of appeal which prevails in France. The bars of the country are brooding upon these questions. The Court of Commerce, the Customs Court, and the proposed court of patent appeals seem but the forerunners of some simple yet general revolution in our judicial system which will again give us one supreme court for appeal in all cases, with such inferior courts as Congress may from time to time establish. We strive with the problems of growth.

When we go into the Law Library in the Capitol at Washington, we find on the right of the entrance a little room, hardly 8 by 10 feet in size, which was the clerk's office of the Supreme Court of the United States. In the library itself we see opposite the window a plaster cast with blind justice holding the scales and the eagle attending as her executive and minister, and we remember that under that symbol sat John Marshall and his associates. We remember that their decisions gave life and vigor to the Constitution, and settled its powers as a living part of the Nation, and we believe that the Federal judiciary, to which men repair for justice in every part of our broad land and which has never failed in courage or honesty or independence, will yet be brought into a more harmonious whole, in which the judicial system of the nine circuits and eighty-odd districts shall be so organized as that we shall have truly united courts of the United States for the good of a united people.

Mr. HUBBARD of West Virginia was recognized.

Mr. MOON of Pennsylvania. Mr. Speaker, as the hour is now so late, and as it is our desire that a larger number of the membership of the House shall be present to hear the remarks of the gentleman from West Virginia, I move that the House do now adjourn.

The SPEAKER pro tempore. Pending the motion, the Chair will submit a request for leave of absence.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. PRINCE until Monday, on account of an official visit to West Point.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on War Claims was discharged from the further consideration of House Document No. 1265, Sixty-first Congress, third session, a letter from the Secretary of the Treasury transmitting a report on the claim of the State of Oregon for equipment of volunteer troops, and the same was referred to the Committee on Appropriations.

ADJOURNMENT.

The motion of Mr. MOON of Pennsylvania was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned until to-morrow, Thursday, January 26, 1911, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the president of the Board of Managers of the National Home for Disabled Volunteer Soldiers, transmitting a statement of receipts and disbursements of the post fund for the five years ended June 30, 1910 (H. Doc. No. 1318); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Chief Signal Officer of the Army submitting an estimate of appropriation for the Signal Service (H. Doc. No. 1317); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for a fire engine at the Military Academy (H. Doc. No. 1316); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Navy, transmitting estimates for construction of battleship *No. 34* (H. Doc. No. 1315); to the Committee on Naval Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BOUTELL, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 31857) to amend section 6 of the currency act of March 14, 1900, as amended by the act approved March 4, 1907, reported the same without amendment, accompanied by a report (No. 1992), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 8129) to increase the efficiency of the Army, reported the same with amendment, accompanied by a report (No. 1993), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ANSBERRY, from the Committee on Invalid Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 32078) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 1991), which said bill and report were referred to the Private Calendar.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 30727) providing for the sale of certain lands to the city of Buffalo, Wyo., reported the same without amendment, accompanied by a report (No. 1994), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 29431) granting a pension to John H. Brown; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 28731) granting a pension to Charles I. Heywood; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 30500) granting an increase of pension to Frederick Claus; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HUMPHREY of Washington: A bill (H. R. 32079) to place the wagon road to Mount Rainier National Park, constructed under the direction of the Secretary of War, under the jurisdiction of the Department of the Interior; to the Committee on Military Affairs.

By Mr. MONDELL: A bill (H. R. 32080) to provide for the leasing of coal lands in the District of Alaska, and for other purposes; to the Committee on the Public Lands.

By Mr. GUERNSEY: A bill (H. R. 32081) changing the name of Fourteenth Street extension to Maine Avenue; to the Committee on the District of Columbia.

By Mr. ROBINSON: A bill (H. R. 32082) limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to paupers; to the Committee on the Public Lands.

By Mr. MONDELL: A bill (H. R. 32083) to authorize the Sheridan Railway & Light Co. to construct and operate railway, telegraph, telephone, and trolley lines through the Fort Mackenzie Military Reservation, and for other purposes; to the Committee on Military Affairs.

By Mr. HOWARD: A bill (H. R. 32084) to incorporate the Carnegie Endowment for International Peace; to the Committee on the Judiciary.

By Mr. PAYNE: Resolution (H. Res. 930) providing for the consideration of House bill 32010; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Joint resolution (H. J. Res. 277) for the appointment of a committee to investigate commerce on the high seas; to the Committee on Rules.

By Mr. SLAYDEN: Joint resolution (H. J. Res. 278) expressing the opinion of the Congress of the United States as to the propriety of a joint agreement between the various Governments of America for the mutual guaranty of their sovereignty and territorial integrity; to the Committee on Foreign Affairs.

By Mr. HAMER: Memorial of the Legislature of Idaho, relating to the election of United States Senators by direct vote of the people; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER of New York: A bill (H. R. 32085) granting an increase of pension to John C. Hagen; to the Committee on Invalid Pensions.

By Mr. ANDERSON: A bill (H. R. 32086) granting an increase of pension to Henry Strouss; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32087) granting an increase of pension to William K. Long; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 32088) granting an increase of pension to Charles S. Griffith; to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 32089) granting a pension to William Huber; to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 32090) granting a pension to Polly W. Riley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32091) granting a pension to Ruth C. Hartman; to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 32092) granting an increase of pension to John A. Johnson; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 32093) for the relief of the legal representatives of J. J. West, deceased; to the Committee on War Claims.

By Mr. DENBY: A bill (H. R. 32094) granting an increase of pension to Rhoda M. Le Gros: to the Committee on Pensions.

Also, a bill (H. R. 32095) granting an increase of pension to Charles June; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 32096) granting a pension to Rosa Drumm Berry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32097) granting an increase of pension to John L. Fritz; to the Committee on Invalid Pensions.

By Mr. EDWARDS of Kentucky: A bill (H. R. 32098) for the relief of Tyre B. Turpin; to the Committee on War Claims.

By Mr. GREGG: A bill (H. R. 32099) for the relief of William Ludgate; to the Committee on Military Affairs.

Also, a bill (H. R. 32100) for the relief of Nathaniel L. Rich; to the Committee on Military Affairs.

By Mr. HEALD: A bill (H. R. 32101) granting an increase of pension to Mary E. Bookhammer; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 32102) granting a pension to Albert G. Jenkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32103) to remove the charge of desertion from the record of John H. Hubbard; to the Committee on Military Affairs.

By Mr. HUBBARD of West Virginia: A bill (H. R. 32104) granting an increase of pension to George W. Sullivan; to the Committee on Invalid Pensions.

By Mr. HUGHES of New Jersey: A bill (H. R. 32105) granting an increase of pension to Andrew J. Hopper; to the Committee on Invalid Pensions.

By Mr. KRONMILLER: A bill (H. R. 32106) for the relief of Julia Nolan, administratrix of the estate of Elizabeth Dean McCardell, deceased; to the Committee on War Claims.

By Mr. LUNDIN: A bill (H. R. 32107) granting a pension to William H. Mayo; to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 32108) granting an increase of pension to John S. Wilson; to the Committee on Invalid Pensions.

By Mr. MILLER of Minnesota: A bill (H. R. 32109) granting an increase of pension to Nancy W. Coffey; to the Committee on Invalid Pensions.

By Mr. MILLINGTON: A bill (H. R. 32110) granting an increase of pension to Charles E. Benson; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 32111) granting an increase of pension to Alfred D. Lofland; to the Committee on Invalid Pensions.

By Mr. PARSONS: A bill (H. R. 32112) granting a pension to Mary Eliza Newton; to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 32113) granting an increase of pension to George Riel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32114) granting a pension to Mary A. Waters; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 32115) granting an increase of pension to Daniel P. Hyatt; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 32116) granting an increase of pension to Jeremiah C. Chaffin; to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 32117) for the relief of C. C. Tolson, his heirs or legal representatives; to the Committee on War Claims.

By Mr. WEISSE: A bill (H. R. 32118) granting an increase of pension to Adolph Wachter; to the Committee on Invalid Pensions.

By Mr. WILSON of Pennsylvania: A bill (H. R. 32119) granting a pension to Marie De Planque; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32120) granting a pension to Sara Jane Staddon; to the Committee on Pensions.

Also, a bill (H. R. 32121) granting an increase of pension to Elias Merrick; to the Committee on Invalid Pensions.

By Mr. JOYCE: A bill (H. R. 32122) to correct the military record of John W. Benson; to the Committee on Military Affairs.

By Mr. ANDERSON: A bill (H. R. 32123) granting an increase of pension to Emma E. Kanzleiter; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON: Paper to accompany bill for relief of Ann Eliza Dumble; to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John F. Stallsmith (previously referred to Committee on Invalid Pensions); to the Committee on Pensions.

By Mr. ANSBERRY: Petition of business firms of Montpelier, Ohio, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Petition of Beal & Hanson, of Summit Station, Ohio, against parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. BURLEIGH: Petition of Woman's Literary Union of Auburn, Me., favoring investigation of causes of tuberculosis, typhoid fever, and other diseases originating in dairy products; to the Committee on Agriculture.

By Mr. BURLESON: Petition of Woman's Literary Club of Gulfport, Miss.; Woman's Club of Beatrice, Nebr.; Woman's Club of Milton, Mass.; Woman's Club of Clinton, Mass.; Monday Afternoon Club, of Passaic, N. J.; Jamaica Plain (Mass.) Tuesday Club; International Association of Car Workers' Lodge No. 59, of Clearfield, Pa.; Coterie Club, of Woodward, Okla.; and Newtonville (Mass.) Woman's Guild, for investigation and endeavor to check spread of tuberculosis and other diseases spread through dairy products; to the Committee on Agriculture.

Also, petitions of Cigar Makers' Union No. 102, of Kansas City, Mo.; Trades Union Assembly of Williamsport, Pa.; St. Louis Branch, Journeymen's Stonecutters' Association, of St. Louis, Mo.; Lima Trade and Labor Council, of Lima, Ohio; Journeymen Iron Molders' Union of Galion, Ohio; Knit Goods Cutters of Cohoes, N. Y.; Journeymen Horseshoers of Buffalo, N. Y.; Switchmen's Union of Chicago, Ill.; La Crosse Women's Club, of La Crosse, Wis.; Detroit Federation of Labor, Detroit, Mich.; International Brotherhood of Teamsters, of Aurora, Ill.; Brotherhood of Locomotive Engineers, of Fort Dodge, Iowa; Brotherhood of Railway Carmen, of Bluefield, W. Va.; Brotherhood of Railroad Trainmen, of Houston, Tex.; Brotherhood of Railroad Trainmen, of Traverse City, Mich.; International Molders' Union, of Cleveland, Ohio; Pattern Makers' Association, of Savannah, Ga.; Typographical Union No. 2, of Philadelphia, Pa.; and Cigar Makers' Union of America, Louisville, Ky., requesting repeal of 10-cent tax on oleomargarine; to the Committee on Agriculture.

Also, petition of Massillon (Ohio) Study Club; Glass Bottle Blowers' Association, Jeannette, Pa.; and Woman's Quotation and Book Club, of Almena, Kans., urging investigation by Congress of spread of tuberculosis and other diseases in dairy products; also repeal of 10-cent tax on oleomargarine; to the Committee on Agriculture.

By Mr. CALDER: Petition of Kings County Republican Club, for building war vessels in Government yards; to the Committee on Naval Affairs.

By Mr. CARY: Petition of Local No. 138, Journeymen Plasterers' Protective and Benevolent Society, of Milwaukee, Wis., for repeal of oleomargarine tax; to the Committee on Ways and Means.

Also, petition of Southern California Homeopathic Medical Society, against the Owen health bill; to the Committee on Agriculture.

By Mr. COCKS of New York: Petition of Townsend Scudder and others, for Senate bill 5677, promoting efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Pennsylvania: Petition of the Victor Brewing Co., for temporary repeal of duty on barley; to the Committee on Ways and Means.

By Mr. CURRIER: Petition of Mrs. Henry F. Green and others, against the Mann bill, H. R. 30292; to the Committee on Interstate and Foreign Commerce.

Also, petition of Clarence E. Michels and 45 other citizens of Francistown, N. H., for the enactment of the Miller-Curtis interstate liquor bill, H. R. 23641; to the Committee on the Judiciary.

By Mr. DRAPER: Memorial of the Board of Aldermen of the City of New York, for construction of naval vessels in Government navy yards; to the Committee on Naval Affairs.

By Mr. ELLIS: Petition of Max A. Vogt and six others, of The Dalles, Oreg., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. ESCH: Petition of citizens of the seventh congressional district of Wisconsin, against removal of duty on barley; to the Committee on Ways and Means.

By Mr. FITZGERALD: Memorial of the Board of Aldermen of New York City, for building battleship *New York* at the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. FLOYD of Arkansas: Paper to accompany bill for relief of John R. Robertson; to the Committee on Invalid Pensions.

Also, petition of citizens of the third congressional district of Arkansas, against a local rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. FOCHT: Petition of Sterling Council, No. 449, Junior Order United American Mechanics, Huntingdon, Pa., for more stringent laws relative to immigrants; to the Committee on Immigration and Naturalization.

By Mr. FOSS: Petition of citizens of Illinois, relative to rural mail carriers; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Memorial of Chamber of Commerce of Champaign, Ill., for the Lowden bill, H. R. 30888; to the Committee on Foreign Affairs.

Also, petition of G. H. Gurler, of De Kalb, Ill., for the militia pay bill, H. R. 28436; to the Committee on Militia.

Also, petition of the Eby Loser Co., of Aurora, Ill., for the Esch bill, for a tax on white phosphorus matches, H. R. 30022; to the Committee on Ways and Means.

Also, petition of Horace Young, of Bristol, Ill., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Col. Fred L. Hunt, of Los Angeles, Cal., for San Francisco as site of Panama Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. GARNER of Texas: Petition of citizens of the fifteenth congressional district of Texas, against the establishment of a local rural parcels-post service on the rural delivery routes; to the Committee on the Post Office and Post Roads.

By Mr. GOULDEN: Memorial of Board of Aldermen of New York City, for construction of naval vessels in Government navy yards; to the Committee on Naval Affairs.

By Mr. GRAFF: Memorial of Christian Church of Peoria, Ill., favoring the Miller-Curtis bill; to the Committee on the Judiciary.

By Mr. GREGG: Petition of Harbor No. 20 of the American Association of Masters, Mates, and Pilots, of Galveston, Tex., for increasing efficiency of the Life-Saving Service by retirement of members; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of James H. Corcoran and others, of Ardoch, N. Dak., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of citizens along post-office rural routes in North Dakota, for House bill 26791, favoring additional pay for rural delivery carriers; to the Committee on the Post Office and Post Roads.

By Mr. HENRY of Texas: Petition of citizens of Marlin, Tex., against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. HIGGINS: Petition and papers to accompany House bill 3307, to correct the military record of Wight Bromley; to the Committee on Military Affairs.

Also, petition of the Common Council of New London, Conn., favoring bill to promote efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of Utah: Petition of the Stevens Mercantile Co. and others, of Fillmore; L. O. Larsen and others, of Spring City; Okelberry & Sons and others, of Goshen; and Norton Thomas Co. and others, of Devils Slide, all in the State of Utah, against rural parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of the Walla Walla Trades and Labor Council, relative to disposition of the Fort Walla Walla tract of land; to the Committee on the Public Lands.

Also, petition of citizens of Salina, and O. P. Satterthwaite, B. H. Tolman, Joseph Hansen, and others, of Brigham, Utah, against parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of City Council of Salt Lake City, indorsing San Francisco as site for the Panama Exposition; to the Committee on Industrial Arts and Expositions.

Also, petition of Legislature of Utah, for pensioning participants in the Indian wars of 1854 and 1874 and for compensation for services rendered and supplies furnished; to the Committee on Pensions.

By Mr. LANGHAM: Petition of citizens of Pennsylvania, against parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. LATTA: Petition of citizens of Foster, Laurel, Cedar Rapids, Orchard, Plainview, Hadar, Fremont, Page, Magnet, Nickerson, Fordyce, Blair, Enola, and North Bend, all in the State of Nebraska, against local rural parcels-post service; to the Committee on the Post Office and Post Roads.

By Mr. LINDBERGH: Petition of citizens of Richmond, Minn., against rural parcels-post service; to the Committee on the Post Office and Post Roads.

By Mr. McKINNEY: Petition of residents of Edgington, Ill., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. McMORRAN: Petition of C. Kern Brewing Co., of Port Huron, Mich., for removal of duty on barley; to the Committee on Ways and Means.

By Mr. MAGUIRE of Nebraska: Petition of business men of Falls City and Verdon, Nebr., against rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. MILLINGTON: Petition of Utica (N. Y.) Ministers' Association, for the Burkett-Sims bill; to the Committee on Interstate and Foreign Commerce.

Also, a petition of William Blaikie Co., of Utica, N. Y., against the enactment of House bill 25241, imposing a tax on druggists in certain cases; to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Charles E. Benson; to the Committee on Pensions.

By Mr. MOORE of Pennsylvania: Petition of George S. Lenhart, against codification of the laws relative to printing in the Government departments; to the Committee on Printing.

Also, a petition of J. A. Dougherty's Sons, distillers, of Philadelphia, for House bill 29466; to the Committee on Ways and Means.

By Mr. O'CONNELL: Petition of navy-yard employees, favoring construction of revenue cutters in the Boston Navy Yard; to the Committee on Naval Affairs.

By Mr. OLDFIELD: Paper to accompany bill for relief of John H. Brown (previously referred to the Committee on Invalid Pensions); to the Committee on Pensions.

By Mr. PAYNE: Paper to accompany bill for relief of Edwin Richmond; to the Committee on Invalid Pensions.

By Mr. PEARRE: Petition of Builders' Exchange of Baltimore City, for Washington as site of Panama Exposition of 1915; to the Committee on Industrial Arts and Expositions.

By Mr. PRAY: Petition of 30 mechanics and others of Thompson, Ophir, Livingston, Sweetgrass, Garnet, Anaconda, Ovando, and Quartz, all in the State of Montana, against a rural parcels-post system, to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Petition of Town Council of Little Compton, R. I., for Senate bill 5677, promoting efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

Also, petition of Town Council of Barrington, R. I., favoring Senate bill 5677, for retirement of members of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Texas: Petition of citizens of the sixteenth congressional district of Texas, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SPARKMAN: Petition of citizens of Bartow, Clearwater, Lakeland, Plant City, St. Petersburg, Tarpon Springs, and Dade City, all in the State of Florida, against rural parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. SPERRY: Resolutions of the New Haven Trades Council, of New Haven, Conn., relative to the tax on oleomargarine; to the Committee on Agriculture.

By Mr. SULZER: Memorial of the Walla Walla Trades and Labor Council, relating to the disposition of the cavalry post at Fort Walla Walla, in Washington; to the Committee on Military Affairs.

By Mr. WEISSE: Petition of citizens of the sixth Wisconsin congressional district, against a parcels-post law; to the Committee on the Post Office and Post Roads.

SENATE.

THURSDAY, *January 26, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. WARREN, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CREDENTIALS.

Mr. RICHARDSON presented the credentials of HENRY A. DU PONT, chosen by the Legislature of the State of Delaware a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

Mr. PURCELL presented the credentials of PORTER J. MCCUMBER, chosen by the Legislature of the State of North Dakota a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Surgeon General of the Public Health and Marine-Hospital Service of the United States for the fiscal year 1910 (H. Doc. No. 1323), which, with the accompanying paper, was referred to the Committee on Public Health and National Quarantine, and ordered to be printed.

CALLING OF THE ROLL.

Mr. DAVIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clarke, Ark.	Jones	Simmons
Bailey	Crane	Kean	Smith, Md.
Bankhead	Crawford	Lodge	Smith, Mich.
Borah	Cullom	Martin	Smoot
Bradley	Cummins	Nelson	Stephenson
Brandegee	Curtis	Nixon	Stone
Briggs	Davis	Oliver	Sutherland
Bristow	Depew	Overman	Taliaferro
Brown	Dillingham	Page	Taylor
Bulkeley	du Pont	Paynter	Terrell
Burkett	Flint	Penrose	Thornton
Burnham	Frazier	Percy	Tillman
Burrows	Gamble	Perkins	Warner
Burton	Guggenheim	Piles	Warren
Carter	Hale	Purcell	Wetmore
Chamberlain	Heyburn	Richardson	
Clapp	Johnston	Root	

Mr. CHAMBERLAIN. I desire to announce that my colleague [Mr. BOURNE] is detained from the Chamber by illness, and has been this week.

Mr. BURNHAM. I understand that my colleague [Mr. GALLINGER] is necessarily absent from the Chamber.

The VICE PRESIDENT. Sixty-six Senators have answered to the roll call. A quorum of the Senate is present. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a petition of the Real Estate Exchange of St. Paul, Minn., praying for the enactment of legislation to promote reciprocal trade relations between the United States and Canada, which was referred to the Committee on Foreign Relations.

Mr. CULLOM presented a petition of the Tri-City Central Trades Council, of Granite City, Ill., and a petition of Local Union No. 8, Cement Workers and Helpers' Union, of Springfield, Ill., praying for the repeal of the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Lodge No. 700, Brotherhood of Railroad Trainmen, of Kankakee, Ill., and a petition of Local Division No. 96, Brotherhood of Locomotive Engineers, of Chicago, Ill., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. BRISTOW presented petitions of Local Councils Nos. 24, of Piqua; 145, of Sterling; 203, of Havensville; 696, of Columbus; 921, of Tipton; 151, of Peabody; 254, of Osawatomie; 55, of Salina; 15, of Pittsburg; 692, of Kansas City; 46, of St. Marys; 513, of Castleton; 23 and 92, of Randall; 2, of Topeka; 6, of Leavenworth; 4, of Ottawa; 360, of Cherrydale; 316, of Mount Hope; 131, of Lewisburg; 22, of Wamego; 34, of Paola; 88, of Galena; 16, of Winfield; 160, of Lone Star; 1, of Topeka; 167, of Clinton; 876, of Overbrook; 352, of Linn; 23, of Manhattan; 460, of Independence; 327, of Courtland; 194, of Jonathan City; 158, of Thayer; 346, of Clyde; 37, of Wellsville; 8, of Holton; 106, of Elmdale; 812, of Alma; 7, of Atchison; 770, of Waterville; 789, of De Soto; 290, of Kansas City; 118, of Valley Falls; 10, of Abilene; 227, of Garnett; 784, of Lyndon; 188, of Council Grove; 111, of Everett; 601, of Coats; 144, of Burns; 454, of Argentine; 402, of Lansing; 9, of Fort Scott; 301, of Neosho Falls; 849, of Harveyville; 123, of Wichita; 202, of Bonner Springs; 33, of Coffeyville; 233, of Willard; 873, of Conway Springs; 53, of Baldwin; 778, of Rossville; 236, of Elk Falls; 125, of Meturn; 14, of Emporia; and 352, of Linn, all of the Fraternal Aid Association, in the State of Kansas, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. WARREN presented a petition of the City Council of Cheyenne, Wyo., praying for the enactment of legislation to increase the salaries of railway mail clerks, etc., which was referred to the Committee on Post Offices and Post Roads.

Mr. DU PONT presented petitions of Captain Hydrick Post, No. 25, of Seaford; of General W. S. Hancock Post, No. 29, of Smyrna; of Admiral S. F. du Pont Post, No. 2, of Wilmington; of Charles Sumner Post, No. 4, of Wilmington; of Local Post No. 5, of New Castle; of Major W. F. Smith Post, No. 6, of